

SAFETY DIRECTIVE

Title: Commercial Driver License Drug & Alcohol Testing Program

Issuing Department: Human Resources Department

Effective Date: March 01, 2024

Approved: Curry C. Hale, Human Resources Director

Type of Action: Original

1.0 PURPOSE

The Omnibus Transportation Employee Testing Act and Title 49 of the Code of Federal Regulations (CFR) Subtitle A Part 40 and Part 382, require employers of drivers of commercial motor vehicles to test those drivers for the prohibited use of alcohol and controlled substances. The Federal Motor Carrier Safety Administration (FMCSA) is the federal agency that oversees the federal regulations that mandates alcohol and drug testing for employees requiring a Commercial Driver's License (CDL) and defined as safety sensitive.

2.0 DEPARTMENTS AFFECTED

As required by Title 49 CFR and FMCSA, this Safety Directive explains the Town of Marana's procedures governing drug and alcohol testing for employees who are required to hold a Commercial Driver's License and in a safety sensitive position. This procedure impacts any Town department with an employee that is required to operate a commercial motor vehicle in accordance with their job position. This procedure does not impact Town employees who may possess a CDL, but the CDL is not related to the employee's position requirements.

This procedure outlines the procedures for the Town's drug and alcohol testing program, as it applies to employees assigned to a position which requires a commercial driver's license. Its purpose is to assign responsibility, and detail the steps to be followed by managers, supervisors, and impacted employees. It also identifies when disciplinary action may be appropriate for employees engaged in drug or alcohol related prohibited conduct.

3.0 DEFINITIONS

3.1 Accident - For all Town employees, an accident is defined as an event causing bodily injury or property damage triggered by an impact occurring between a vehicle and another vehicle, a person, animal, road debris, or fixed object. In this procedure, post-accident drug and alcohol testing is mandatory if the accident involves a Town commercial motor vehicle in which there is either a fatality or (2) the CDL driver receives a citation for a moving

- violation and there is either (a) an injury requiring treatment away from the scene or (b) a vehicle required to be towed from the scene.
- 3.2 Commercial Driver's License (CDL) a driver's license required to operate any vehicle or combination of vehicles in excess of 26,001 lbs, (GVWR); a vehicle that is designed to carry 16 or more passengers, (including driver); or any size vehicle which is used in transportation of hazardous materials.
- 3.3 CDL Drug/Alcohol Program Manager The Human Resources Department administers the CDL drug and alcohol testing program. Human Resources receives test results and coordinates drug and alcohol testing with the employee and their supervisor. The Human Resources Director or their designee acts as a single point of contact for questions regarding administration of the testing program and the regulations detailed in Title 49 CFR Part 40, Part 382 and Part 383.
- 3.4 Controlled Substance as defined by FMCSA, and for purposes of this procedure, refers to marijuana metabolites, cocaine metabolites, opiates (codeine, morphine and heroin), amphetamines, methamphetamine, phencyclidine (PCP), or other metabolites. The terms controlled substances and drugs include legal substances obtained illegally or used in an unauthorized manner, but do not refer to the proper use of controlled substances authorized by law which do not affect job safety or performance.
- 3.5 Medical Review Officer (MRO) A physician approved by Human Resources to provide occupational medical services to the Town to include drug testing services. The Town Physician is certified as a Medical Review Officer ("MRO") that reviews laboratory confirmed positive drug tests to determine if there is a legitimate medical explanation for the result and reports the test results to the Town.
- 3.6 Drug & Alcohol Clearinghouse The Department of Transportation's secure online database that gives employers, the FMCSA, State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations. The Clearinghouse enables employers to identify drivers who commit a drug and alcohol program violation while working for one employer, but who fail to subsequently inform another employer (as required by current regulations).
- 3.7 Full Query A full query allows the employer to see detailed information about any drug and alcohol program violations in a driver's Clearinghouse record. An employer must obtain the driver's electronic consent in the Clearinghouse prior to the release of detailed violation information during the full query.
- 3.8 Limited Query A limited query allows an employer to determine if an individual driver's Clearinghouse record has any information about resolved or unresolved drug and alcohol program violations but does not provide specific violation information.
- 3.9 Drug Test The National Institute on Drug Abuse (NIDA) Drug Screen is regulated by the Federal Government and the drug screen includes testing for marijuana, cocaine, phencyclidine, amphetamines and opiates. A NIDA drug screen is required for all CDL drivers as outlined in this procedure.

- 3.10 Medical Certification Meeting minimum medical requirements in accordance with FMCSA guidelines through a physical examination by the Town Physician.
- 3.11 Reasonable Suspicion a manager's or supervisor's belief that the CDL driver has violated the alcohol or controlled substances prohibition, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Only those supervisors, managers, or directors who have undergone training in accordance with Title 49 CFR shall determine reasonable suspicion.
- 3.12 Safety Sensitive The Town defines all positions requiring a CDL as safety sensitive. Briefly, Title 49 CFR. § 382.107 defines safety sensitive functions to include driving, loading, repairing, or servicing, all time in or on a commercial motor vehicle, except resting time, supervising these activities, or getting ready to do these activities. The Town considers all CDL holders to be performing safety sensitive functions, or about to be performing safety sensitive functions, any time they are on duty regardless of how often they use their CDL.
- 3.13 Split Specimen Collection A Collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).
- 3.14 Title 49 CFR Refers to the regulations under the Omnibus Transportation Employee Testing Act of 1991 (OTETA) in order to enhance highway transportation safety. The Omnibus Transportation Employee Testing Act and Title 49 of the Code of Federal Regulations (CFR) Part 40 and Part 382, and following, require employers of drivers of commercial motor vehicles to test those drivers for the prohibited use of alcohol and controlled substances.

4.0 CDL DRIVER RESPONSIBILITIES

- 4.1 All employees in, or applicants for CDL positions must participate in the drug and alcohol testing program as a condition of employment. Failure to participate and comply with program requirements may result in disciplinary action up to and including termination of employment as outlined in the Town's Administrative Directive Drug- and Alcohol-Free Workplace. Employees shall make themselves available and participate in the testing protocol in a timely manner.
- 4.2 When an employee is required to be tested for controlled substances or alcohol (or both), the employee must stop all safety sensitive duties and immediately proceed to the designated Town occupational clinic.
- 4.3 An employee shall not refuse a test required under this procedure. See Section 8 for examples of refusals to submit to a test.
- 4.4 It is the responsibility of an employee on prescription medication or over-the-counter medication, which has the potential to impair performance, to consult with their physician regarding its effects on the ability to perform job functions. An employee may be required to have their physician certify to Human Resources or the Town's MRO that the substance does/does not adversely affect the employee's fitness for duty.
- 4.5 It is the employee's responsibility to read and ask questions regarding this and any related procedures.

5.0 DEPARTMENT RESPONSIBILITIES

- 5.1 Managers shall direct employees in safety sensitive positions to comply with the provisions for pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up testing in accordance with the FMCSA rules.
- 5.2 When an employee tests positive, or refuses a test, the employee's supervisor will be contacted by Human Resources and the department must immediately remove the employee from any safety sensitive functions. A positive test occurs if an alcohol test result indicates a 0.02 or more alcohol concentration or a verified positive drug test result.
- 5.3 Managers and supervisors who supervise CDL drivers shall participate in the reasonable suspicion training provided by Human Resources.
- 5.4 Supervisors are responsible for determining through direct observation whether an employee is capable of performing his or her assigned duties. Determinations shall be documented and based on specific, contemporaneous, articulable, reliable observations of the appearance, behavior, speech, or body odors of the employee (Appendix A).
- 5.5 No supervisor having knowledge that a CDL driver in a safety sensitive position has used alcohol within eight (8) hours shall permit that employee to perform the safety sensitive job functions.
- 5.6 Managers and supervisors are encouraged to discuss with employees any behavior or job performance factors that may indicate the use of drugs, alcohol, or other violations of this procedure and to suggest, when appropriate, that employees seek assistance through the Employee Assistance Program (EAP).
- 5.7 Department supervisors shall report to Human Resources within one business day any changes to the list of CDL drivers or CDL positions within the department.

6.0 HUMAN RESOURCES RESPONSIBILITIES

- 6.1 Provide applicants hired into CDL positions with instructions on how to register within the FMCSA Drug & Alcohol Clearinghouse which as of 6 January 2023, replaces the Release of Information Form 49 CFR Part 40 Drug and Alcohol Testing.
- 6.2 Run a "Full Query" within the Clearinghouse to determine a candidate's past drug and alcohol violations.
- 6.3 Run "Limited Query's" on all existing employee CDL holders within the program.
- 6.4 Manage the CDL Drug and Alcohol Testing Program to include providing Reasonable Suspicion training to supervisors of employees affected by this directive.
- 6.5 Provide driver educational materials to each CDL driver in the Town CDL program to include materials that explain the regulations and corresponding procedures.
- 6.6 Maintains a list of all Town positions and Town drivers that require a CDL.
- 6.7 Communicates with Town Physician, departments and employees as outlined in this procedure.
- 6.8 Communicates a positive test result to a department so the employee can be removed from any safety sensitive functions.

7.0 EMPLOYEE PROHIBITED CONDUCT

- 7.1 As required under the FMCSA, this section of the procedure outlines the alcohol and controlled substance-related activities that are prohibited under this Town procedure and the FMCSA drug use and alcohol misuse rules for drivers of commercial motor vehicles.
- 7.2 Employees shall not use, sell, distribute, dispense, possess, or manufacture any alcoholic beverages or illegal drugs or any other intoxicating substance on a job site or Town property while on duty, or while in a Town vehicle, a vehicle leased for Town business, or a privately owned vehicle being used for Town business.
- 7.3 Employees shall not report for duty or remain on duty when the driver has used any controlled substance, except when instructed by 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.
- 7.4 Employees shall not report to work unfit for duty at the beginning of a shift or upon returning from any break, lunch or rest period, as a result of consuming alcohol, illegal drugs, or other intoxicant. Additionally, no employee notified of being in a safety sensitive position as defined in this procedure shall report to work in a condition that violates the 1991 Omnibus Transportation Act and FMCSA corresponding rules.
- 7.5 Employees shall not refuse to submit to an alcohol or controlled substance test required by post-accident, random, reasonable suspicion, or follow-up testing.
- 7.6 Employees are not to perform safety sensitive functions after an alcohol test result indicating a 0.02 or higher alcohol concentration or a positive drug test result.
- 7.7 When subject to post accident testing, employees shall not consume alcohol before testing is completed or for 8 hours following an accident, whichever is first.
- 7.8 Employees shall not use alcohol within four (4) hours prior to performing safety sensitive functions.

8.0 OVERVIEW OF REQUIRED DRUG AND ALCOHOL TESTS

- 8.1 Title 49 of the Federal regulations requires six types of testing: (1) pre-employment, (2) post-accident, (3) random, (4) reasonable suspicion, (5) return-to-duty, and (6) follow-up testing of drivers for the use of alcohol or controlled substances.
- 8.2 In order for employees to recognize the circumstances which may initiate these tests, the following list and short overview of the tests are provided. Human Resources will provide additional information on the testing procedures to persons new to the program or upon inquiry.
- 8.3 Pre-employment Testing The FMCSA rules require that all applicants for employment in positions requiring a CDL or individuals being transferred into such positions must be given a pre-employment drug test. Applicants may not be hired or assigned to a safety sensitive function unless they complete and pass the test. Prior to conducting the test, Human Resources shall inform the applicant or employee of the testing requirements. A post-offer candidate shall complete the FMCSA Clearinghouse request for inquiry process.

- 8.4 Reasonable Suspicion Testing The FMCSA rules require that an employee in a safety sensitive position must be directed to undergo alcohol and/or drug testing when the trained manager or supervisor has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol in violation of OTETA and FMCSA regulations. The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable, reliable observations concerning the appearance, behavior, speech, or body odors of the employee. See Appendix A for the Town form that must be completed by the manager or supervisor to document the employee's referral for testing.
- 8.5 Post-Accident Testing The FMCSA rules provide that as soon as practicable following an accident, tests for alcohol and controlled substances shall be administered to employees performing safety sensitive functions if the accident involved either a (1) fatality or (2) the CDL driver receives a citation for a moving violation and there is either (a) an injury requiring treatment away from the scene or (b) a vehicle required to be towed from the scene.
- 8.6 Drug and alcohol tests shall be performed as soon as possible following the accident, but, for drug tests, no later than thirty-two (32) hours following the accident, and for alcohol tests, no later than eight (8) hours.
 - 8.6.1 If an alcohol test is not administered within two (2) hours following the accident, the department must still attempt to administer the test, and must also prepare a record stating the reason(s) the test was not promptly administered.
 - 8.6.2 Records of failure to test within the stated window shall be provided to Human Resources.
 - 8.6.3 If an alcohol test is still not administered within eight (8) hours following the accident, the department shall cease attempts to administer an alcohol test and shall forward to Human Resources the record of the reasons the testing was not completed.
 - 8.6.4 A safety sensitive employee shall not use alcohol for eight (8) hours following an accident or until the employee undergoes a post-accident alcohol test, whichever occurs first.
- 8.7 The requirement to test for alcohol and drugs following an accident shall in no way delay necessary medical attention for injured people or prohibit a safety sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.
- 8.8 Random Testing The FMCSA rules require that safety sensitive employees be subject to random drug and alcohol testing. The selection of employees for random alcohol and drug testing shall be made by a scientifically valid random number selection method. The selection process shall assure that each employee shall have an equal chance of being tested each time selections are made. The test dates shall be spread reasonably throughout the year with no established pattern. Testing will be unannounced as well as random.

8.9 Human Resources will contact the employee's supervisor with the name(s) of the employee(s) to be tested that day. Once the employee has been notified that he or she has been selected for random testing, the employee shall report immediately to the collection site (Occupational Clinic). Employees shall be individually and discretely notified by their supervisor or their designee to report to the collection site.

9.0 REFUSAL TO SUBMIT TO A TEST

- 9.1 The actions or behaviors discussed below shall constitute a refusal to submit to a required test.
 - 9.1.1 Failure to remain readily available for post-accident testing for eight (8) hours or until the employee undergoes testing, whichever occurs first.
 - 9.1.2 The table below lists other examples of events considered to be refusals by the federal regulations. More examples of refusals can be found in Title 49 CFR.
 - 9.1.3 Table

Employee Refusal Event	Regulation Instructions
	If the employee did not get to the site or spent too much time getting there, it is a refusal.
Failure to remain at the site to have drug or alcohol test done.	If it is reported by the collection site that the employee left the site before the testing process was complete, it is a refusal.
Failure to provide a urine sample or, for an alcohol test, adequate amount of saliva or breath.	If it is reported by the collection site that the employee left the collection site before providing a required sample, it is a refusal.
Failure to provide a sufficient amount of urine or, for an alcohol test, adequate amount of saliva or breath.	If the MRO finds that there was no medical reason for the employee to provide an insufficient amount of urine or for breath for an alcohol test, it is a refusal.
Failure to undergo a medical examination or evaluation as MRO or Town has directed.	If the employee does not go in for a medical examination or evaluation, it is a refusal.

9.2 Consequences of a Refusal

- 9.2.1 Refusal or failure to submit to a required alcohol or drug test, as defined in this procedure, constitutes a failed test.
- 9.2.2 A failed test results in immediate removal of the employee from safety sensitive duties and appropriate disciplinary action for the refusal up to and including termination as outlined in the Town's Drug and Alcohol Administrative Directive.

10.0 CDL DRIVERS RETURNING TO FULL DUTY

10.1 If for any reason an employee has been unable to perform CDL duties because of a physical or mental injury or disease, the employee will be required by the Town to

- complete medical certification. Once the employee is medically released to full duty by the treating physician, the employee must inform their supervisor who shall inform Human Resources. Human Resources will then schedule a CDL physical with the Town Physician.
- 10.2 If the CDL driver has not participated in the Town's random controlled substance testing program for 30 days, the employee will be required to undergo pre-employment testing for controlled substances (FMCSA §382.301).
- 10.3 Human Resources will contact the Town Physician to schedule the physical and, when required, pre-employment testing. The physician will post the results of the testing on the Town's medical review results portal. They will advise of any issues arising from the recertification process.

11.0 PRESCRIPTION DRUGS

- 11.1 Taking prescribed medications and performing the DOT safety sensitive functions is not prohibited by FMCSA drug and alcohol regulations, but review of prescribed drugs is part of the CDL physical. CFR 49 §382.213.
- 11.2 The employee must meet the following minimum standards:
 - 11.2.1 An employee taking multiple medications will need to report the use of prescription drugs that may impact safety sensitive job performance.
 - 11.2.2 The medicine is prescribed to the employee by a licensed physician, such as the employee's personal doctor. The substance is used at the dosage prescribed or authorized.
 - 11.2.3 The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of the employee's duties. To assist the doctor, the employee can provide his or her Job Description form describing, in detail, the physical requirements of the job to the doctor.
 - 11.2.4 The employee may be allowed to perform job duties while using prescribed medications if the employee's health care provider advises, in writing to Human Resources or the MRO, that the substance will not adversely affect the employee's ability to operate a vehicle requiring a CDL. Final approval may be subject to review by the MRO.
 - 11.2.5 If the employee is being treated by more than one physician, the employee must show that at least one of the treating physicians has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of the employee's duties.

12.0 CONSEQUENCES OF PROHIBITED CONDUCT

- 12.1 If a post-offer candidate has a positive test, the offer of employment shall be withdrawn. The applicant may reapply after one year and must provide evidence of successfully completing a treatment program and pass the pre-employment drug test.
- 12.2 An employee who has a verified positive drug test result or who has engaged in prohibited alcohol conduct must be immediately removed from safety sensitive functions.

12.3 Federal rules governing safety sensitive positions determine the provisions of drug and alcohol testing related to accidents. Any work-related accident or injury involving Town vehicles, equipment or property where it can be demonstrated that the use of alcohol, drugs, or other intoxicants was a contributing factor, may result in disciplinary action up to and including termination of employment.

13.0 DRUG TEST RESULTS

13.1 Test Results Reported by MRO

- 13.1.1 Human Resources shall secure the services of a Town Physician to act as the Town's Medical Review Officer (MRO) who shall provide reporting in accordance with Title 49 CFR.
- 13.1.2 When the MRO is conducting a controlled substance test, it will include split specimen collection and analysis.
- 13.1.3 Prior to providing the Town with a "positive" result, the MRO will make every reasonable effort to first confidentially contact the employee. If unable to confidentially contact the employee, the MRO shall contact Human Resources who will attempt to contact the employee. The employee will be notified that they must immediately contact the MRO. The employee must contact the MRO within 24 hours of being notified by Human Resources.
- 13.1.4 The employee has 72 hours after being notified of a positive test result to have the second sample tested in accordance with the split sample collection procedure in place. The employee must make this request to the MRO at the time the employee has been informed of the initial positive result. The employee is responsible for the cost associated with split sample testing; however, in no way shall the testing of the split sample be delayed by the employee's inability to pay.
- 13.1.5 Human Resources will provide written notification of any positive results to the employing department.

13.2 Confidentiality of Test Results

- 13.2.1 Employee alcohol and drug testing results and records are maintained under strict confidentiality by Town Human Resources Department, the drug testing laboratory, the alcohol testing facility, and the MRO. The results cannot be released to any other party except to a substance abuse professional without the written consent of the employee.
- 13.2.2 Exceptions to these confidentiality provisions are limited to a decision maker in arbitration, litigation, or administrative proceedings arising from a positive drug test or other violation of these rules.

14.0 LICENSE RENEWALS

14.1 Medical examinations required for the renewal of a current employee's CDL shall be performed by the Town Physician designated as the MRO.

- 14.2 During the scheduled examination with the Town Physician, the employee will be required to provide health history information by completing the D.O.T. Medical Examination Report and certify the information by attesting to the following: "I certify the above information is complete and accurate. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Exam Certificate." Employees found to have violated the attested statement shall have their certificate invalidated.
- 14.3 If the employee does not successfully pass the examination, or has the certificate invalidated, the employee shall not continue in a safety sensitive position until cleared to do so by the Town Physician. The fee related to the renewal examination is paid for by the Town. Any fees associated with getting a CDL reinstated will be the sole responsibility of the employee.

15.0 TRAINING AND RECORD RETENTION

- 15.1 Supervisors who make reasonable suspicion determinations must receive training on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse. The training and the related training records are the responsibility of Human Resources.
- 15.2 Title 49 CFR Part 40 outlines the controlled substance and alcohol test records that must be completed and maintained, where they must be maintained and the duration they must be kept by the Town. All records must be maintained in a secure location with controlled access. Only employees with an official 'need to know' have access to these records. By law, all records must be accessible by officials of the FMCSA within 2 days of a request.

16.0 AVAILABILITY OF PROCEDURE AND RESOURCES

- 16.1 A copy of this Administrative Procedure and appendices must be available at each work site where there is a CDL driver.
- 16.2 The employee has the responsibility to read and be familiar with this procedure.
- 16.3 Any questions that may arise from employees, supervisors or managers concerning the requirements of this procedure and the related Federal Regulations should be directed to Human Resources.
- 16.4 Whenever there are significant changes in the program, Human Resources will provide affected Town employees with information and or training regarding those changes.
- 16.5 Additional information on the Town's Drug Free Workplace Administrative Procedure can be found on the employee intranet.

17.0 ATTACHMENTS

17.1 Appendix A – Reasonable Suspicion Supervisor Checklist

APPENDIX A

REASONABLE SUSPICION SUPERVISOR CHECKLIST



Reasonable Suspicion Supervisor Checklist

Please record the following information to document your reasonable suspicion test determination.

Employee's Name:		Employee's ID:		
Job Title:				
Location of Incident:		Date:	Time Ob	served:
Trained Supervisor's Na	me & Signature:			
Concurring Supervisor's	Name & Signature:			
	ions (Please check all that apply	and include	descriptions of any changes	in behavior.)
Appearance:				
□ Normal	☐ Tremors/ Twitches		☐ Flushed or Pale	☐ Dilated Pupils
☐ Sleepy	☐ Sores/ Puncture Marks		☐ Heavy Eyelids	☐ Bloodshot eyes
☐ Disheveled	☐ Excessive Sweating		☐ Cleanliness	☐ Other (explain below
Description/Notes:				
Behavior/ Demeanor:	_			
□ Nervous	☐ Erratic		od Swings	☐ Lethargic
☐ Irritable	☐ Paranoid		bally/Physically Abusive	☐ Highly Excited
☐ Confusion/Inattentive	☐ Combative	☐ Fati	gue/ Sleeping/ Drowsiness	☐ Other (explain below)
Description/Notes:				
Motor Skills:				
		Falling	Unbalanced	☐ Other (explain below)
Unsteady Description/Notes:	☐ Lack of Coordination ☐	Fidgety	□ Stumbling	
Speech:				
□ Normal□ Incoherent	☐ Slurred☐ Exaggerated		□ Loud□ Talking Excessively	☐ Other (explain below)
	□ Exaggerated		☐ Talking Excessively	
Odor:			Пъ.	
□ Normal □ Pody Odor	☐ Smell of Alcohol☐ Smell of Marijua		☐ Excessive	
□ Body Odor			☐ Other (exp	iaiii below)
Description/Notes:				

Comments:				

REVISION HISTORY

REV	DESCRIPTION OF CHANGE	DATE
OR	Original	03/01/2024

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