

**Town of Needham
Drug and Alcohol Testing Policy
Personnel Administration #416**

I. PURPOSE AND SCOPE

The purpose of this policy is to outline the responsibilities of employees, supervisors and managers with regard to drug and alcohol use in the workplace and the testing of employees in safety sensitive positions in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991, and in accordance with the Drug-free Workplace Act of 1988.

II. APPLICABILITY

This policy applies to all safety-sensitive employees at the Department of Public Works.

III. DEFINITIONS

Refer to Policy #100 Definitions for commonly used words and phrases.

Safety Sensitive – For the purposes of this policy, safety-sensitive shall refer to all employees required by the Town to obtain and retain a Commercial Drivers License.

IV. GENERAL POLICY REGARDING DRUGS AND ALCOHOL IN THE WORKPLACE

- A. The Town of Needham firmly believes that the use of illegal drugs and misuse of legal drugs, including alcohol, is a source of danger in the workplace and a threat to the Town's goal of maintaining a productive and safe work environment. The Town of Needham discourages users of illegal drugs and misusers of legal drugs, including alcohol, from seeking employment with the Town and encourages very forcefully the rehabilitation of such persons already in its employ.
- B. Employees of the Town of Needham are visible and active members of the communities where they live and work. They are inescapably identified with the Town and are expected to represent it in a responsible and creditable fashion. While the Town of Needham has no intention of intruding into the private lives of its employees, the Town does expect employees to report for work in a condition to perform their duties. The Town recognizes that employee off-the-job as well as on-the-job involvement with drugs and alcohol can have an impact on the workplace and on our ability to accomplish our goal of providing an alcohol and drug-free environment.
 - 1. In accordance with the Federal Drug Free Workplace Act, the illegal use, sale or possession of narcotics, drugs or controlled substances while on the job or on Town property is an offense warranting disciplinary action up to and including termination.

2. Employees who are under the influence of alcohol, either on the job or when reporting for work, or who possess or consume alcohol during work hours, have the potential for interfering with their own as well as their co-workers safe and efficient job performance. Consistent with Town practice, such conditions will be proper cause for disciplinary action up to and including termination of employment.
3. Employees are expected to follow any directions of their health care provider concerning prescription medications, and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance. In addition, notification must be given at the time of any testing or screening as to any drugs or medicine being taken.
4. Any employee, while on Town property or during the employee's work shift, including without limitation all breaks and meal periods, consumes or uses, or is found to have in his or her personal possession, in his or her locker or desk or other such repository, alcohol or drugs, which are not medically authorized, or is found to have used or to be using such alcohol or drugs, will be suspended immediately pending further investigation. If use or possession is substantiated, disciplinary action, up to and including termination will be imposed.
5. The Town of Needham is committed to the treatment and rehabilitation of employees with alcohol and controlled substance misuse problems, and encourages employees to come forward voluntarily and seek assistance for those problems prior to and after implementation of the testing program.
6. If at any time an employee volunteers to enter a chemical dependency program, he/she will enter without fear of disciplinary action being taken against him/her as a result of seeking treatment. Such a program is designed to provide care and treatment to employees who are in need of rehabilitation. Details concerning the treatment any employee receives at this program shall remain confidential and shall not be released to the public.

V. POLICY REGARDING DRUG AND ALCOHOL TESTING

- A. It is the policy of the Town of Needham to comply fully with the regulations mandating pre-use, random, reasonable suspicion and post-accident drug and alcohol testing in accordance with regulations issued by the U.S. Department of Transportation.
- B. Performance of safety-sensitive functions is prohibited by employees having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test; by employees using alcohol or within four hours after using alcohol; and by employees in the possession of any medication containing alcohol unless the package seal is unbroken.

Use of illicit drugs by safety-sensitive drivers is prohibited.

VI. PROCEDURES

A. Types of Tests

To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. The following tests are required:

1. Pre-employment (Pre-use) All applicants for employment in positions requiring Commercial Drivers License (pre-employment), or candidates for transfer or promotion to such a position (pre-use) are subject to screening for improper use of alcohol or controlled substances.
2. Post-Accident – conducted after accidents on drivers in Town vehicles whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, and for all fatal accidents even if the driver is not cited for a moving traffic violation. An accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle is required to be towed from the scene. Alcohol tests should be conducted within 2 hours, but in no case more than 8 hour after the accident. Employees must refrain from all alcohol use until the test is complete. Post-accident drug tests must be conducted within 32 hours.
3. Reasonable Suspicion – conducted when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or illicit drug misuse. If a driver's behavior or appearance suggests alcohol or drug misuse, a reasonable suspicion test must be conducted. If a test cannot be administered, the driver must be removed from performing safety sensitive duties for at least 24 hours. Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties. Testing for substance abuse may occur at any time upon suspicion. Reasonable suspicion testing may only be conducted after consultation with the Director of Public Works or his/her designee.
4. Random – conducted on a random, unannounced basis just before, during or after performance of safety sensitive functions for alcohol or at any time for drugs. Each year, the number of random alcohol tests conducted by the Town must equal at least 25% of all the safety-sensitive drivers. Random drug tests conducted by the Town must equal at least 50% of all safety-sensitive drivers.
5. Return to Duty and Follow-up – conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following the return to duty.

B. Conducting Tests

1. Alcohol

DOT rules require breath testing using evidential breath testing (EBT) devices. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02 or greater, a second, confirmation test must be conducted.

2. Drugs

- a. Drug testing is conducted by analyzing a driver’s urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen’s security, proper identification and integrity are not compromised.
- b. DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen remains sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.
- c. All urine specimens are analyzed for the following drugs:

Marijuana (THC metabolite)
Cocaine
Amphetamines
Opiates (including heroin)
Phencyclidine (PCP)

- d. Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.
- e. All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result.

3. Refusal to Participate

Any refusal to participate in any of the types of alcohol and or drug tests authorized in this policy will be treated as indicative of a positive result.

C. Consequences of Alcohol/Drug Misuse

1. Safety sensitive employees who have any alcohol concentration (defined as 0.02 or greater) who tested just before, during or just after performing safety sensitive functions must be removed from performing such duties for 24 hours. Depending on the circumstances, disciplinary action will be imposed upon an employee whose alcohol test reveals any alcohol concentration (between 0.02 and 0.04).
2. Drivers who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol use greater than 0.04 or drug use) must be immediately removed from safety sensitive functions. Drivers who are serving a probationary period will be terminated immediately. Non-probationary drivers will be offered an opportunity for rehabilitation in accordance with section 3 below. Non-probationary drivers who choose not to avail themselves of this rehabilitation opportunity will be terminated immediately.
3. Drivers who wish to continue employment with the Town of Needham must be evaluated by a substance abuse professional and comply with any treatment recommendations to assist them with an alcohol or drug problem. The payment for any recommended treatment will be strictly at the expense of the employee (or his/her health insurance program, if applicable). Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.
4. Drivers who have been evaluated by a substance abuse professional, who comply with any recommended treatment, who have taken a return to duty test with a result of less than 0.02, and who are then subject to un announced follow-up tests at the employees' expense, may return to work.
5. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy during the next five years will be terminated immediately.
6. Once an employee successfully completes rehabilitation, he/she shall be returned to his/her regular duty assignment or an equivalent position. Employee assignments during treatment shall be based on each individual's circumstances. As a condition of employment, the employee must comply with prescribed follow-up care.

D. Information/Training

1. All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation of Receipt (Attachment 1).

2. All supervisory and management personnel in the Department of Public Works and Department of Public Facilities must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing. Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy. Periodic, on-going training will also occur after implementation of the policy.
3. This policy will be posted on employee bulletin boards and will be available to all employees.
4. Educational information will be made available periodically which will focus on the potentially dangerous effects of drug and alcohol use and abuse, the procedures associated with pre-employment drug screening and “reasonable suspicion” testing, the effect on job performance measured in loss of productivity, and the potential safety hazards presented to the individual employee, other employees and the public.
5. All recruitment advertising will include the statement “Drug/alcohol screening is a condition of employment” at the bottom of the advertisement/posting with the EEO statement.
6. All final candidates for employment will be given a copy of this policy, and be given the opportunity to read the policy in its entirety.

E. Record Keeping

1. The Town is required to keep detailed records of its alcohol and drug misuse prevention program.
2. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released by the employer, the substance abuse professional, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information may only be made with the driver’s consent, or in response to a court order.

F. Pre-employment References

1. The Town must obtain and review the following information from each employer that the prospective driver worked for, in a safety-sensitive position, during the previous two years: information about a test in which the employee’s blood alcohol was 0.04 or greater; information about a positive drug test; and information about any refusal to participate in the alcohol and drug testing program.
2. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired.
3. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the

applicant may not be appointed unless he/she has already consulted with a substance abuse professional, already received recommended treatment, and subsequently tested negative in a return to duty test for the former employer.

4. The Town of Needham must provide the same information to subsequent employers of current Town employees when provided with a written release.

G. FMCSA Clearinghouse Reporting

The Town is required to collect, maintain, and report certain information listed below, to the Federal Motor Carrier Safety Administration (FMCSA) Commercial Driver's License Drug and Alcohol Clearinghouse as required by 49 CFR Part 382, Subpart C, §391.23:

1. A verified positive, adulterated, or substituted drug test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to any test required;
4. An employer's report of actual knowledge, as defined at §382.107;
5. On duty alcohol use pursuant to §382.205;
6. Pre-duty alcohol use pursuant to §382.207;
7. Alcohol use following an accident pursuant to §382.209; and
8. Controlled substance use pursuant to §382.213;
9. A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
10. A negative return-to-duty test; and
11. An employer's report of completion of follow-up testing.

H. Questions

Questions about this policy should be referred to the employee's Division Superintendent, the Director of Public Works, the Director of Building Maintenance and/or the Director of Human Resources.

Attachments:

- A Employee Confirmation of Receipt
- B Consent to Conduct Limited Query in Clearinghouse

ATTACHMENT A
Town of Needham
ACKNOWLEDGMENT OF RECEIPT OF POLICY

I acknowledge receipt of the Drug & Alcohol Testing Policy #416 (revised September 2020) from the Town of Needham and I have read its contents. I have been granted the opportunity to ask my supervisor questions about this policy.

Employee's Name (Print)

Employee's Signature

Date

Attachment B
Town of Needham
FMCSA Clearinghouse Consent to Query

I, _____ (Driver Name), in accordance with 49 CFR Section 382.711(b), provide consent to the Town of Needham (hereinafter “the Town”) or its agent to conduct a limited query of the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse (hereinafter “Clearinghouse”) to determine whether drug or alcohol violation information about me exists in the Clearinghouse. This consent is valid during the period of my employment by the Town and the Town or its agent may make inquiries of the Clearinghouse as necessary during my employment, including annual queries as required by law.

I understand that if the limited query conducted by the Town or its agent indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the Town or its agent without first obtaining additional specific consent from me.

I further understand that if I refuse to provide consent for the Town or its agent to conduct a limited query of the Clearinghouse, the Town is legally required to prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA’s drug and alcohol program regulations. I understand my refusal may impact my ability to perform an essential function of my position, and may adversely impact my employment with the Town.

Employee Signature

Date