

8.13 FEDERAL HIGHWAY ADMINISTRATION (FHWA) REGULATIONS ON DRUG USE AND ALCOHOL ABUSE

This policy is adopted in order to comply with federal requirements concerning drug and alcohol testing of employees who hold positions involving use of a Commercial Drivers' License (CDL), or who perform other safety sensitive functions as defined by regulations of the United States Department of Transportation (DOT). These employees are required to be familiar with and adhere to the FHWA regulations. Violations of the regulations and/or this policy may lead to discipline. Federal law requires implementation of such testing effective December 1, 1996 for employers with up to 50 commercial motor vehicle operators. It is a Town policy that employees working in positions deemed safety-sensitive by the Town are covered by the terms and conditions of this DOT testing program.

DEFINITIONS

For the purpose of this policy, the following definitions shall apply:

- ***Unauthorized Prescription Drugs*** - any substance present in an employee's body that cannot be validated by a prescription from a practicing physician and also verified by the Town's Medical Review Officer.
- ***Controlled Substances*** - marijuana, cocaine, PCP, narcotics, tranquilizers, amphetamines, barbiturates, heroin or any other controlled substance defined in the Penal Law of the State of Connecticut.
- ***Diluted Sample*** - A urine specimen with 5 milligrams of creatinine per deciliter of urine or fewer is regarded as "substituted". A substituted test is considered a refusal to take a drug test, a violation of U.S. DOT rules equivalent to failing a drug test. The U.S. DOT has encountered a small number of cases in which individuals may have legitimate medical or physiological explanations for producing specimens with lower levels of creatinine. When a laboratory reports a specimen as substituted, that is five milligrams of creatinine per deciliter or less, the MRO will consider the specimen to be diluted if the creatinine concentration is two milligrams per deciliter of urine or higher. Diluted specimens will not cause the applicant or employee to be regarded as violating the regulation. However, applicants or employees who provide diluted specimens in the 2 to 5 milligrams per deciliter range will have to undergo an unannounced immediate recollection under direct observation as a safeguard for the integrity of the testing program. Specimens with fewer than 2 milligrams of creatinine per deciliter of urine are considered "substituted".

SCOPE

The Town's alcohol and controlled substances testing program applies to all employees and volunteers who perform safety-sensitive functions and all applicants for and incumbent employees seeking transfer to safety-sensitive positions. Furthermore, this includes CDL employees during their actual driving time, as well as during the performance of any on-duty "safety sensitive functions", employees who may operate a commercial motor vehicle owned and/or under the control of the Town, and employees who are responsible for the safety of residents and community visitors.

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Participation in this drug and alcohol testing program is a condition of employment for each safety-sensitive employee.

This program also applies to certain other positions that the Town has deemed "safety sensitive" due to the nature of the position in that it provides for the safety of residents and/or the general public (e.g. lifeguards).

POLICY

The Town is required to test certain safety-sensitive individuals (employees with CDL licenses and other individuals performing "safety sensitive" functions) for the use of illegal drugs and controlled substances (herein "drugs"), and misuse of alcohol. These regulations include a variety of drug and alcohol tests, including reasonable suspicion testing, random testing, post accident testing, return to duty and follow-up testing as well as pre-employment drug testing. This policy has been formulated to protect the safety and security of the public, employees, facilities and assets and is adopted in compliance with the mandates of the U.S. Department of Transportation. Testing procedures used by the Town will conform to applicable federal (and state) requirements, and the Town will conduct the appropriate tests required by applicable law to determine if an employee has a controlled substance or alcohol level greater than allowable under the regulations in his or her system. There are serious consequences in accordance with this mandate for individuals who use illegal drugs and misuse alcohol, in addition to the Town wide workforce policy on drug and alcohol misuse.

In compliance with the U.S. DOT mandate, the Town has adopted the following procedures:

- An employee and supervisor education and training program.
- A drug and alcohol testing program for employees and applicants for employment in safety-sensitive positions.
- A program for evaluating employees who violate the drug and alcohol misuse policy.
- Administrative procedures for record keeping, reporting, releasing information, and certifying compliance.

Definitions and Application of Policy

The Town's alcohol and controlled substances testing program applies to every person employed by the Town or applying to be an employee, who possesses a commercial driver's license (CDL) and who may operate a commercial motor vehicle owned and/or under the control of the Town. This includes employees during their actual driving time as well as during the performance of any on-duty "safety-sensitive functions".

Commercial motor vehicles are defined as a motor vehicle or combination of motor vehicles, used to transport passengers or property if the motor vehicle (i) has a gross combined weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or (ii) has a gross vehicle weight rating of 26,001 or more pounds; or (iii) is

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designed to transport sixteen or more passengers, including the driver; or (iv) is of any size and is used to transport materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

Participation as a Requirement of Employment or Use as Contractor

Participation in this U.S. DOT mandated drug and alcohol testing program is a requirement of employment (or for use as a contractor/subcontractor) for safety-sensitive individuals as defined below.

Testing procedures used by the Town will conform to applicable federal (and state) requirements, and the Town will conduct the appropriate tests required by applicable law to determine if an employee has a controlled substance or alcohol level allowable under the regulations.

Safety Sensitive Functions

The purpose of the testing requirements is to eliminate the dangers posed by commercial motor vehicle drivers performing "safety sensitive functions" while under the influence of alcohol and/or other drugs. The regulations define these functions to include the following elements of job performance:

- All driving time, which means all time spent at the driving controls of a commercial motor vehicle;
- All time, apart from driving time, in or upon a commercial motor vehicle, except time spent resting in a sleeper berth (if applicable);
- All time loading or unloading a vehicle, supervising or assisting in loading or unloading, attending to a vehicle being loaded or unloaded, remaining ready to operate the vehicle, or giving or receiving any receipts for shipments loaded or unloaded;
- All time spent inspecting equipment, or otherwise inspecting servicing or conditioning any commercial motor vehicle at any time;
- All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;
- All time spent waiting to be dispatched, unless the driver has been relieved from duty by his supervisor, whether at a Town facility or elsewhere, and
- All time spent in attendance at the scene of an accident and performing required duties in relation to such accident.

Additionally, the Town has determined that all functions of certain positions whose primary purpose is to protect the safety of Town residents and the general public are safety sensitive.

Any employee subject to the program is considered to be engaged in the performance of these

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safety-sensitive functions during any time they are actually performing them, are ready to perform them, or are immediately available to perform them. Employees are required to be in compliance with this program and all applicable regulations whenever they perform these functions.

Impairment Prohibitions and Hours of Compliance

The required hours of compliance for prohibited behavior (defined below) relating to drug and/or alcohol use are as listed below:

Drugs: A safety-sensitive individual is prohibited from reporting for duty or remaining on duty for the performance of safety-sensitive functions when using any controlled substances (except when the use is pursuant to the instructions of a physician who has advised the driver that the substance the driver is using does not adversely affect the driver's ability to safely operate a commercial motor vehicle) Note: Employees must report all therapeutic uses of drugs/controlled substances in advance of performing any safety-sensitive functions.

Alcohol: A safety-sensitive employee is prohibited from:

- Reporting for duty or remaining on duty requiring the performance of a safety sensitive function while having an alcohol concentration of 0.04 or higher;
- Possessing alcohol while on duty or operating a motor vehicle unless the alcohol is manifested and transported as part of a shipment;
- Using alcohol while performing safety-sensitive functions;
- Performing safety sensitive functions within four hours after using alcohol (this includes consumption of any beverage, mixture, or preparation, including medications, that contain alcohol);
- Use of alcohol for eight (8) hours following an accident that requires a post-accident alcohol test under this program and the applicable regulations, or until the employee has undergone a post-accident alcohol test, whichever comes first;
- Refusing to submit to appropriate alcohol and/or controlled substances testing under this program or the applicable regulations.

A supervisor having actual knowledge that a driver or safety-sensitive employee has engaged in any of the prohibitions listed above is required to remove the employee from the performance of a safety-sensitive function.

Safety-sensitive employees will be subject to testing pursuant to U. S. DOT regulations. Testing of non safety-sensitive employees and applicants for non-safety positions, and any testing of safety - sensitive employees over and above the requirements of the U. S. DOT regulations is performed pursuant to separate authority of the Town. "Refusal to submit" to a test is prohibited and may result in immediate termination. Behavior that constitutes "refusal to submit" includes but is not limited to:

1. Direct refusal to take a drug or alcohol test;

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2. Failure to provide sufficient quantities of breath or urine to be tested without a valid medical explanation;
3. Tampering with or attempting to adulterate the specimen;
4. Engaging in conduct that obstructs the testing process;
5. Failure to notify the Town that you are in a post accident situation requiring testing, leaving the scene of an accident without a valid reason before tests are conducted or not being immediately available for post accident testing without a valid reason;
6. Not reporting directly to the collection site after notification.

A "refusal to submit" is equivalent to a positive test result for that test. This policy prohibits a safety-sensitive individual from providing incorrect prior employment information and prior drug and/or alcohol information relating to the U.S. DOT drug and alcohol testing.

Testing Procedures

The Town uses an appropriate site for the collection of urine and breath samples which meets the requirements specified by the Department of Transportation. Administration of breath tests for alcohol may be performed concurrently with urine collections. However, the Town reserves the right to administer breath tests separately from urine collections and to administer breath tests and/or urine collections either on or off Town premises.

Drug Collection Procedures

Drug test analysis will be conducted only at laboratories that are certified and meet U.S. DOT regulations. The Town and vendors used in connection with drug testing, will comply with all U.S. DOT regulations intended to ensure the accuracy and confidentiality of test results and the fair and respectful treatment of persons being tested. U.S. DOT approved collection procedures will be used to collect urine specimens for drug tests (except in some post accident situations). As required or permitted in certain specific situations, which may change from time to time by the U.S. DOT, relating to issues such as suspected adulteration, prior positive test results, specific gravity and creatinine level outside of a specified range, temperature outside of an acceptable range, etc., a directly observed collection by a same sex collector will be required. There is a rigorous "chain of custody" process that directly follows a specimen from collection to testing. The collection and chain of custody procedure protect the employee and the integrity of the drug-testing process, thereby safeguarding the validity of the test results.

Urine collections will be split into two specimens in accordance with U.S. DOT requirement which may change from time to time. This requirement provides an additional level of protection for the individual. Certain situations may require that a specimen be discarded and a new collection may be initiated.

All individuals who are tested will be identified via picture identification or by authorized Town

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personnel to assure that the individual(s) tested is/are the correct individual(s). Social Security or employee numbers are used to track the identification process.

Drug testing of safety-sensitive employees authorized by U.S. DOT regulations is limited to the following substances:

1. Marijuana
2. Cocaine
3. Amphetamines
4. Opiates (e.g., heroin, codeine)
5. Phencyclidine (PCP)

While drug testing by the Town normally will be limited to the five substances listed above, the Town reserves the right, as permitted by law and, if applicable, collective bargaining agreements, to perform separate testing for other controlled substances.

Medical Review Officer

The program will use a Medical Review Officer (MRO), a licensed physician (medical doctor or doctor of osteopathy) who has appropriate knowledge and medical training to interpret and evaluate an individual's initial confirmed positive test result together with his or her medical history and any other relevant biomedical information.

The MRO's responsibility will include providing a review of the laboratory's "chain of custody" documentation, to ensure that it has properly tracked the handling and storage of the urine specimen.

The Medical Review Officer will rule out alternate medical explanations through reviewing the tested individual's medical records, and will give the individual an opportunity to discuss the test results.

Split-Specimen Testing

If a safety-sensitive individual has a positive drug test after Medical Review Officer (MRO) review, the MRO will notify the employee that he or she has 72 hours to request a test of the split specimen. Upon notification of the safety-sensitive individual by the Town that the safety-sensitive individual must contact the MRO, he or she must contact the MRO within 24 hours. Failure of the safety-sensitive individual to contact the MRO within this time frame unless the Town determines a valid reason for not doing so exists, will result in a final determination of the result of the presumed positive drug test result without input from the safety-sensitive individual.

The safety-sensitive individual will have the option to have the split specimen portion retested at a laboratory certified by the Department of Health and Human Services (DHHS) of his/her choice.

This option cannot be selected after 72 hours from the time of notification by the MRO unless there is significant reason acceptable to the MRO why the individual was delayed, such as an injury. If

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this option is selected, the safety-sensitive individual must verbally notify Greenwich Hospital Occupational Health Services or the MRO for the request of the re-test and send written notification with a statement that the Safety Sensitive Individual will accept any other DHHS certified laboratory, or the specified DHHS certified laboratory name, location, address, and telephone number, selected, if any. The safety-sensitive individual must provide a copy to the Town's Drug and Alcohol Program Manager/EAP Coordinator.

Medical Issues

Employees are required to provide a minimum sample for testing, and are allowed up to three (3) hours as a testing period. Should an employee be unable to produce a urine sample within this time frame, she/he will be required to meet with the MRO, who will arrange for an examination with a urologist to determine if a "shy-bladder" condition exists. Should that examination fail to produce a medical reason for the employee's inability to provide a sample, then the employee's test will be deemed a refusal, and considered positive.

Alcohol Testing Procedures

Alcohol testing will be performed in accordance with DOT regulations utilizing approved testing equipment and technicians. Breath Alcohol Technicians (BATs) are those individuals who have completed mandatory training on required collection and testing procedures and on the proper operation of equipment and approved alcohol testing procedures. If the initial screening test is 0.02 BAC or greater, a confirmation test is performed by a BAT on an Evidential Breath Testing device with the capability of printing out the test results. The Town reserves the right, pursuant to its policy and its own authority to perform alcohol tests of non safety-sensitive employees, using the same procedures as required for testing safety-sensitive employees, as permitted by law, and, if applicable, collective bargaining agreements.

Opportunity for a Re-Test

After a positive drug and/or alcohol test result, there is no opportunity to have a second collection that negates the first positive test result.

Applicable U.S. DOT regulations do not require an option for an alcohol split specimen collection and therefore there will be no opportunity for an alcohol re-test.

For drug testing, if a regular employee provides a sample deemed to be diluted by the Town's testing agent prior to being sent to the laboratory for testing, she or he shall have the option of having that sample tested and accepting the consequences, or she or he will be allowed up to three (3) hours to produce a new sample for testing. If the second sample is deemed by the Town's testing agent (laboratory) to be "dilute", the employee will be deemed to have a positive test.

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Final Test Results

An alcohol test result is a final test result after the alcohol confirmation test.

A positive drug test result is final after an individual with a positive drug test or dilute sample result either: (1) does not request a Split Specimen Retest within the timeframe allowed, or (2) the requested re-test reconfirms the positive or dilute result.

Circumstances for Drug and/or Alcohol Testing

Safety-sensitive individuals will be required to submit to approved drug and alcohol testing in certain situations including the circumstances listed below. Laboratory testing, other than the retesting of the split portion of a positive drug test (as discussed elsewhere in this policy); will be performed by Greenwich Hospital Occupational Health Services or such other provider as the Town designates.

Pre-employment Testing

Any offer of a safety-sensitive position (i.e., employment, transfer, or use as a contractor) is contingent upon the applicant's submission to a drug test and achieving negative test results.

Consequences of Positive Test Results or a Diluted Sample for Pre-employment Testing:

An applicant who tests positive for drugs as determined by the Town's testing agents, or if it is determined that the urine specimen was "substituted", the applicant will be considered unqualified to work for the Town and will be ineligible to reapply for a minimum of six months. The applicant must at the time of reapplication produce evidence of successful completion of a drug rehabilitation program as well as evidence of being drug free during that period. Appropriate evidence would be a letter from the medical facility certifying completion of the rehabilitation program and negative drug screen.

Random Testing

Random drug and alcohol testing will be conducted for all employees performing safety-sensitive functions. Random tests will be unannounced and spread reasonably throughout the year. There will be no pattern to when random tests will be conducted, and all employees performing safety-sensitive functions will have an equal chance of being selected for testing from the random pool each time random tests are conducted. Employees shall remain in the pool even after being selected and tested. An employee, therefore, may be selected for a random test more than once during a year, or not at all.

Employees will be selected anonymously using a scientific numerical selection process. The employee must report immediately to the collection site upon notification of his/her selection from

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the random pool. The Town's testing service will maintain the data base of safety-sensitive employees and will perform the random selection of employees to be tested each testing cycle. In the event a randomly selected employee is absent from work on the day his/her test was scheduled, the employee will be tested immediately upon his/her return to work, or on the next randomly selected testing date whichever is first. Employees with an accepted worker's compensation claim who are absent from the worksite or performing light duty functions are deemed to be working and must submit to random testing if selected. An additional employee identification number will be selected and substituted for each absent employee who is not required to submit to testing at that time.

Consequences of a Positive Test Result for Random Testing

After learning of an employee whose random drug test is positive or whose alcohol test result is 0.04 blood alcohol content (BAC) or greater, the individual will be placed on an unpaid leave of absence at the sole discretion of the Town. If accumulated vacation time is available, the individual may use it in place of unpaid leave. The individual will not perform safety-sensitive functions until he/she has been evaluated by the Substance Abuse Professional, completed all recommended treatment and taken a return-to-duty test with a verified negative result.

Consequences of a Diluted Sample for Random Testing

Regular employees who provide a sample deemed to be a "diluted sample" by the Town's testing agent will be contacted by the Town's Medical Review Officer (MRO) to determine if a medical problem exists. If it is determined that the urine specimen was "substituted" the employee will be subject to the same consequences as an employee with positive results on a random drug test must be a verified negative drug test result or an alcohol test result of less than 0.02 BAC. In the return-to-duty evaluation, the substance abuse professional also will determine whether the employee needs to participate in a rehabilitation program after returning to duty and the frequency and duration of follow-up testing after the employee returns to duty.

Reasonable Suspicion

If, based on the observation of at least one supervisor or manager trained in detecting signs of alcohol misuse and/or drug use, the Town has reasonable suspicion to believe that a safety-sensitive individual is impaired while on duty by drug use and/or alcohol misuse, the safety-sensitive individual shall be required to submit to immediate drug and/or alcohol testing. This requirement will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

The Town will direct an employee to undergo reasonable suspicion testing for alcohol only if such observations are made during, just preceding or just after the period of the workday as outlined in this policy. If an alcohol test required by the policy is not administered within two hours following determination, the Town shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered

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within eight hours following the reasonable suspicion determination, the Town will cease attempts to administer an alcohol test and state on the record the reasons for not administering the test.

A written record of the observations leading to reasonable suspicion testing for drugs shall be made and signed by a supervisor or Town official within 24 hours of the observation or before the test results are released, whichever is first.

An employee who undergoes reasonable suspicion testing will be removed from service and placed on administrative leave pending the test results and will be required to accept or arrange for independent transportation home. If the test results are negative, the employee will be returned to work.

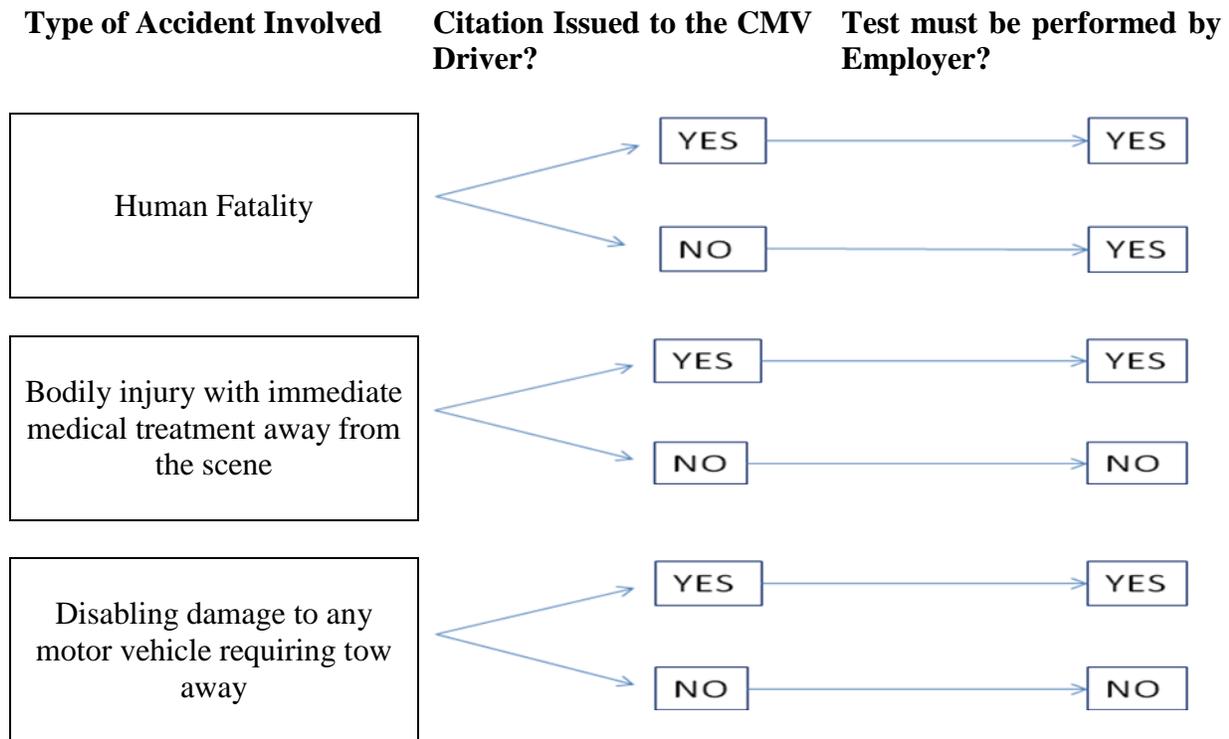
Consequences of Positive Test Results or a Dilute Sample for Reasonable Suspicion Testing

Pursuant to Town policy, a positive drug and/or alcohol reasonable suspicion test will result in discipline and may result in immediate termination. The employee will be removed from the safety sensitive position and will be subject to the same consequences applied to employees following a positive random test. If the employee is not terminated, the employee shall be disciplined and, at a minimum, be subject to the same requirements regarding assessment, rehabilitation, and return to work testing applied to employees following a positive random test. An employee who submits a dilute sample is subject to the same consequences as for dilute samples provided during a random drug test.

Post-accident

The Department of Transportation requires employees to submit to post accident alcohol and controlled substance testing as soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce for each of its surviving drivers. The following table notes when a post accident test is required under DOT regulations:

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In addition to the above listed U.S. DOT required post accident testing, under Town policy an accident involving a commercial motor vehicle will also require the safety-sensitive individual to participate in post accident drug and alcohol testing, if one or more of the following conditions is met:

- An injury occurred requiring medical treatment away from the scene of the accident;
- A vehicle required towing from the scene of the accident;
- A waterfront or park accident occurred in an area of responsibility of an on-duty safety-sensitive employee.

Although not required by the U.S. DOT, Town policy requires that a post-accident test will be conducted and will result in the employee being removed from performing safety-sensitive work pending the test results. Absent the finding of reasonable suspicion, the employee may perform non-safety sensitive work within the employee’s existing job description and pending test results. When post-accident tests are performed, they will be conducted as soon as possible following the accident. Drug tests must be performed within 32 hours and alcohol tests within 8 hours following an accident.

If the employee has not submitted to an alcohol test within two hours of the accident, the Town will prepare and maintain a record stating the reason that the test was not administered promptly. If the alcohol test is not administered within 8 hours after the accident, the Town will cease efforts to administer the test and will maintain the same documents.

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If the drug test is not administered within 32 hours, the Town will cease efforts to test for drugs and will prepare and maintain the same type of record.

These testing requirements will not delay necessary medical attention for injured people, nor will they prohibit an employee who was performing a safety-sensitive function from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However employees performing a safety sensitive function must remain readily available for drug testing for 32 hours and for alcohol testing for 8 hours. This means the employee must ensure that the Town knows the employee's location during the hours following an accident, or until post-accident and alcohol tests have been completed. An employee who is not available for testing will be considered to have refused to submit to testing unless his/her unavailability is attributable to efforts to obtain assistance in responding to the accident or obtaining necessary emergency medical care.

Employees in a post-accident situation must notify the Town and get information on how to proceed with testing; they are obligated to follow testing instructions.

An employee subject to post-accident testing must refrain from consuming alcohol for eight (8) hours following the accident or until he/she submits to an alcohol test, whichever comes first.

Consequences of a Positive or Dilute Test Result for Post Accident Testing

Pursuant to Town policy, a positive drug and/or alcohol post-accident test may result in immediate termination. The employee will be removed from the safety-sensitive position and will at least be subject to the same consequences applied to employees following a positive random test. An employee who submits a diluted sample is subject to the same consequences as for dilute samples provided during a random drug test.

Return-to-Duty Testing

An employee with a verified positive drug test result, an alcohol test result of 0.04 BAC or greater, a refusal to submit to a test, or any other activity violating this policy or state or federal law may not return to work until the employee is evaluated by a Substance Abuse Professional (SAP) who determines the employee has followed any recommendations for rehabilitation made by the SAP to the employee and the employee passes a return to duty test. A return-to-duty test will be performed only after the substance abuse professional has indicated that the employee has followed the recommendations. To pass the return-to-duty test, the result must be a verified negative drug test result or an alcohol test result of less than 0.02 BAC. In the return-to-duty evaluation, the substance abuse professional also will determine whether the employee needs to participate in a rehabilitation program after returning to duty and the frequency and duration of follow-up testing after the employee returns to duty.

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Consequences of a Positive Test Result or Dilute Sample for Return to Duty Testing

Any positive drug test or any alcohol test with a result of 0.02 BAC or higher for an employee subject to return-to-duty testing will result in immediate termination.

Any employee who provides a diluted sample at the time of testing shall be subject to the procedures for dilute specimens under the random program.

Follow-Up Testing

Employees permitted to return to duty after engaging in prohibited conduct are subject to unannounced follow-up testing for up to five years. The Substance Abuse Professional will determine the frequency and duration of the follow-up testing. A minimum of 6 follow-up tests during the first 12 months after the employee has returned to duty will be performed. This follow-up testing is separate from and in addition to the regular random testing program. Accordingly, employees subject to follow-up testing will remain in the standard random pool and will be tested whenever their name comes up for random testing, even if this means being tested twice in the same day, week or month.

Follow-up alcohol testing will be conducted only when the employee is performing safety-sensitive functions, including pre work and post work shift assignments.

Consequences of Positive Test Result or Diluted Sample for Follow Up Testing

Any positive test result provided by an employee subject to follow-up testing (including the positive result of a safety-sensitive job transfer, random, reasonable suspicion, post-accident, or other test) will result in immediate termination.

Any employee who provides a diluted sample at the time of testing shall be subject to the procedures for diluted specimens under the random program.

Referral for SAP Evaluation and Treatment

If a safety-sensitive individual has a positive test result for drugs and/or alcohol he/she must have an evaluation by a Substance Abuse Professional (SAP). This assessment will evaluate whether the individual needs assistance resolving problems associated with drug use and/or alcohol misuse. If treatment is prescribed, the safety-sensitive individual must complete the recommended program, before that individual is medically qualified to perform U.S. DOT safety-sensitive activities. This requirement is independent of termination by one employer and re-hiring by another.

Safety-sensitive employees permitted to return to work following a positive test will be re-evaluated by the SAP to determine whether the employee has complied with the SAP's recommendations. After that evaluation and the successful completion of a return-to-duty test, the SAP will

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recommend to the employee the number and frequency of follow up alcohol and/or drug tests following the employee's return to duty. The follow-up testing shall consist of at least six tests in the first twelve months following the employee's return to duty. Finally, the SAP will recommend whether the employee should be subject to both drug and alcohol follow-up tests.

Consequences for Use of Drugs and Misuse of Alcohol**On First Positive**

In all events of positive drug test results (including a diluted sample or a refusal to test as defined elsewhere), after MRO review, but before a split sample re-test if any, or alcohol test result with a BAC of 0.04 or greater (or a refusal to test), the safety-sensitive individual will have the following consequences: (A request for a re-test for positive drug test results or a diluted sample will not delay the consequences).

1. Not be permitted to perform safety sensitive activities.
2. Be referred to a substance abuse professional.
3. Be required to complete prescribed treatment defined by the substance abuse professional, if any.
4. Be required to pass a return to duty test (or tests if both a Drug and an alcohol test are required by the substance abuse professional) before safety sensitive activities are resumed.
5. Be placed in a follow-up testing program until completed.

On a Negative Re-test

After a positive drug test result, or an alcohol test result of 0.02 BAC or greater, or if a request is made to re-test a drug test split specimen, the individual will be placed on an unpaid leave of absence by the Town. If a split specimen re-test is performed and that re-test does not reconfirm the positive test result, back pay will be provided if the individual was on an unpaid leave of absence.

On a Second Positive Result

On a second positive Alcohol Test Result, or a second positive Drug Test Result, the individual will be considered unqualified to perform his/her job responsibilities and the employee or contractor relationship may be terminated.

Additional Consequence:

An employee who has an alcohol concentration of 0.02 BAC or greater but less than 0.04 may not perform a safety-sensitive function until the start of the employee's next regularly scheduled duty period, provided such period is not fewer than 8 hours following administration of the alcohol test. If no non-safety sensitive work is available the employee will be placed on an un-paid leave of absence. The Town retains the right to discipline including terminate an employee who tests positive

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for alcohol misuse or drug use or who refuses to submit to an alcohol test.

Voluntary Self Referral

The Town encourages drivers and those who perform safety-sensitive functions who recognize that they may have a problem with controlled substances, including prescription drugs, illegal substances and/or alcohol to seek assistance for resolving that problem voluntarily and before they have a U.S. DOT violation due to a positive test result or because they engaged in other U.S. DOT prohibited conduct.

A driver or employee who performs safety-sensitive functions who admits to a drug and/or alcohol problem in compliance with the requirements of this policy will be given an opportunity to obtain a chemical use assessment from the Town Employee Assistance Program (EAP). Pursuant to this voluntary self-referral policy employees are hereby placed on notice that their initial contact with the EAP to begin the self-referral process, whether in person, by phone or any electronic communication, will be considered the employee's express authorization for the EAP to notify the Town of the self-referral so the Town can immediately remove the employee from the performance of any safety-sensitive functions. Thereafter, prior to the chemical use assessment, which must occur not later than 3 days after initial contact with the EAP, the Town will require the driver to sign a release of information that will authorize the Town's Designated Employer Representative to receive the results of the assessment, and to receive subsequent reports related to the assessment, and the driver's successful completion of all recommendations for assistance.

The following conditions must apply to the driver's self-admission:

- The driver's admission cannot be made during his/her on-duty time. It must occur prior to the driver's reporting for duty on any particular day.
- The driver's admission cannot be made in an attempt to avoid a required U.S. DOT drug test.
- Under 49 CFR Part 382.121, the U.S. DOT requires the Town to remove the driver from safety-sensitive functions, including driving.
- When the Town is satisfied that the driver has complied with the EAP's recommendations for assistance, the Town will return the driver to safety-sensitive functions, provided that:
 - Prior to returning to safety-sensitive functions, the driver will be required to provide negative DOT drug and/or alcohol test result on a Return-to-Duty test, and
 - After being returned to safety-sensitive function, the driver will be subject to follow-up non-DOT testing, as permissible by the Town policy for non-DOT drug and alcohol testing, under the laws of this state.
- A driver who self-identifies under this policy, and who then fails to comply with the EAP's recommendations will be considered to have engaged in conduct prohibited by the U.S. DOT in 49 CFR Part 382, Subpart B, and will not be permitted to return to safety-sensitive function until he/she has successfully complied with the SAP return-to-duty process.

8.13 FEDERAL HIGHWAY ADMINISTRATION (FHWA) REGULATION ON DRUG USE AND ALCOHOL ABUSE

The Town will adhere to the following terms, in accordance with 49 CFR Part 382.121:

- The Town will take no adverse action against a driver who admits to drug and/or alcohol use under the terms above.
- A driver who self-identifies under this program will be given reasonable time to obtain the required assessment and assistance. Under independent authority, the Town requires the assessment process to be initiated within three (3) days of the driver's disclosure.
- A driver who complies with all requirements, and who complies satisfactorily with the EAP's recommendations for assistance, will be permitted to return to safety-sensitive functions.
- A driver who cooperates and successfully complies with this program will not be considered to have had a U.S. DOT violation of prohibited conduct under 49 CFR Part 382, Subpart B.

Financial Issues

Re-testing at the Employee's Expense

U.S. DOT regulations provide for a "split sample" procedure which requires a portion of each urine specimen to be retained in a separate, sealed container. An employee whose urine test is positive or diluted may request that the split sample be tested at a separate laboratory meeting the required Federal certification. U.S. DOT regulations require that the employee makes such request within seventy-two (72) hours of learning of a verified positive or diluted test.

All costs associated with split sample testing must be prepaid by the employee, including shipping and handling, transportation, testing and reporting to the MRO. If the result of the split sample test is negative, these costs will be reimbursed to the employee. Additionally, the employee will be reinstated with no loss of seniority and paid for appropriate back wages.

If any treatment is prescribed, any cost not covered by insurance will be at the expense of the individual.

Additional Requirements

Contact Person

U.S. DOT regulations require that a single contact person be identified to answer questions about this policy. For purposes of this policy, the contact person will be the Assistant Director of Human Resources. This individual is designated to answer questions about this policy and the program in general.

Education and Training

Training for Employees

The Town will display and distribute to employees performing a safety-sensitive function

8.13 FEDERAL HIGHWAY ADMINISTRATION (FHWA) REGULATION ON DRUG USE AND ALCOHOL ABUSE

educational materials on an annual basis explaining the requirements of the U.S. DOT Drug and Alcohol Testing Regulations and its policies and procedures. Employees and supervisors who perform a safety-sensitive function also will be provided with training on the effects and indications of drug use. Employees will be required to sign a form indicating that they have received a copy of the policies and procedures; the form will be kept on file.

Training for Supervisors

Supervisors responsible for determining when to administer reasonable suspicion tests will receive at least 60 minutes of alcohol awareness training and at least 60 minutes of drug awareness training at the initiation of the program, with annual follow-up training thereafter.

Confidentiality Provision

Access to information contained in records created and retained as a result of this program is strictly limited in accordance with the Federal Transit Authority Regulations and HIPPA regulations. Testing records and results will be released only to those properly authorized to receive such information.

Disqualification of Drivers

A driver who is disqualified shall not drive a commercial motor vehicle.

A driver is disqualified for the duration of the driver's loss of his/her privilege to operate a commercial motor vehicle either temporarily or permanently, by reason of revocation, suspension, withdrawal or denial of an operator's license, permit or privilege is restored by the authority that revoked, suspended, withdrew or denied it.

A driver who receives a notice that his/her license, permit or privilege to operate a commercial motor vehicle has been revoked, suspended or withdrawn shall notify the Town of the contents of the notice before the end of the business day following the day the driver received the notice.

The driver may be disciplined up to and including termination upon disqualification and/or failure to notify the Town by the end of the business day following the day the driver received the notice.

Driving While Under the Influence (DUI)

Town of Greenwich policy requires a driver to notify his or her supervisor and the Designated Employer Representative (DER is within the Department of Human Resources) immediately upon receipt of a notice from the license holder's State Department of Motor Vehicles *or* a law enforcement officer that his *or* her driver license is or will be expired, canceled, suspended or revoked, or if there is a change in the license Class status. A twenty four hour automatic DUI suspension is considered a change in license status and must be reported. The time period between an automatic suspension and an administrative DMV hearing, when a license is not technically

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suspended, will be enforced as a period when driving permissions on Town business will be suspended until a decision has been made by the DMV.