

TOWN OF TREMPEALEAU
ALCOHOL AND CONTROLLED SUBSTANCE TESTING POLICY
For Employees Required to Possess
A Commercial Driver's License (CDL)

1. POLICY QUESTIONS

Any employee with questions regarding this policy should direct them to the Board of the Town of Trempealeau.

2. EMPLOYEES SUBJECT TO POLICY

All employees of the Town of Trempealeau who are required as a condition of their employment to have a Commercial Driver's License (CDL) and operate a Commercial Motor Vehicle (CMV) are subject to this policy. For the purposes of this policy, the word "employees(s)" shall refer only to those persons subject to the provisions contained herein.

3. PERIODS OF COMPLIANCE

Employees are required to be in compliance with this policy while performing any safety-sensitive function and/or while on duty at their respective departments. Safety-sensitive refers to any on-duty functions as explained in 49 CFR part 395.2 (Federal Register), and includes as follows:

- (A) all time at a shipper or carrier, etc., waiting to be dispatched;
- (B) all time inspecting equipment;
- (C) all driving time;
- (D) all time in or on a CMV except resting time;
- (E) all time loading or unloading;
- (F) all time spent performing driver requirements relating to accidents;
- (G) all time repairing, assisting, or attending a disabled CMV;
- (H) performing any other work in the employ or service of the Town of Trempealeau;
- (I) performing any compensated work for the Town of Trempealeau; and
- (J) all time spend providing a breath sample or urine specimen, including travel time to and from the collection site, to comply with testing as directed by the Town of Trempealeau.

4. PROHIBITED EMPLOYEE CONDUCT

Employees are prohibited from performing, and the Town of Trempealeau is prohibited from using an employee to perform safety-sensitive functions after an alcohol test result indicating a 0.02% Blood Alcohol Concentration (BAC), or a positive controlled substance test result. Employees are prohibited from using alcohol or illegal drugs while on duty, and may not perform safety-sensitive functions within four hours after using alcohol. Additionally, employees required to take a post-accident alcohol test may not use any alcohol until the test is completed,

or until eight hours after the accident. If a department has knowledge that an employee has at least a .02% and up to .0399% BAC, they may not permit the employee to perform or continue to perform safety-sensitive functions for 24 hours. If they are .04 or higher must not perform safety sensitive duties and SAP must be initiated. Employees or employers who violate these provisions can be subject to fines up to \$10,000 for each offense.

5. CIRCUMSTANCES FOR EMPLOYEE TESTING

The Town of Trempealeau must conduct (1) pre-employment, (2) post-accident, (3) random, (4) reasonable suspicion, (5) return to duty, and (6) follow-up testing of employees for the misuse of alcohol or use of controlled substances in conformance with CDL requirements.

Pre-employment Testing. Upon the conditional offer of a position requiring a CDL to a prospective employee, the prospective employee will be required to submit to controlled substance testing.

Post-accident Testing. As soon as practical during the two hours following an accident involving a Town employee in operation of a CMV, that employee is required to undergo alcohol and controlled substance testing, provided one or more of the following had occurred:

- (A) The employee was performing a safety-sensitive function with respect to the vehicle involved in the accident;
- (B) The accident involved the loss of human life; or
- (C) The employee receives a citation under state or local law for a moving violation arising from the accident and injury treated away from the scene or vehicle towed.

Random Testing. All employees with CDLs will be required to undergo random alcohol and controlled substance testing. The alcohol testing rate shall initially involve 10% of employees, and the minimum rate of random controlled substance testing shall be 50% of employees. Alcohol tests must be performed just before an employee is to perform safety-sensitive functions, while an employee is performing safety-sensitive functions, or just after an employee has ceased performing such functions. Controlled substance testing may be performed at anytime the employee is at work for the Town of Trempealeau. The testing must be unannounced, and will be dispersed throughout the calendar year.

Reasonable Suspicion Testing. An employee may be required to undergo alcohol and/or controlled substance testing if the Town of Trempealeau has reasonable suspicion that he/she has violated the prohibitions of these rules, or if the employee's behavior and appearance indicate alcohol misuse. The test(s) will be administered within two hours following the determination of reasonable suspicion.

Return to Duty Testing. An employee who returns to duty after violation of the alcohol misuse provisions will be required to undergo an alcohol test, with a resulting BAC of less than 0.02% necessary for reinstatement. An employee who returns to duty after violation of the controlled

substance use provisions will be required to undergo a controlled substance test, with a negative result necessary for reinstatement.

Follow-up Testing. Any employee identified as needing education or assistance in resolving problems associated with alcohol misuse or controlled substance use shall be subject to at least 6(six) unannounced follow-up tests in the first 12 months following the employee’s return to duty. However, a Substance Abuse Professional may direct additional testing during the 12 month period, or for an additional period not to exceed 60 (sixty) months from the date the employee returns to duty. **An employee identified as needing education or assistance shall be required to seek that assistance on his/her own time. In addition, the Town of Trempealeau will not compensate the employee for any time spent traveling to and from tests, or actually undergoing the tests as required, nor will they reimburse the employee for any direct or indirect expense incurred in connection with the tests. Substance abuse professional as defined in 49 CFR part 392.107 of the federal register means: licensed medical doctor; licensed psychologist; social worker employee assistance professional; or certified addition counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance disorders.**

6. PROCEDURES FOR TESTING

Employees will be directed to The Town of Trempealeau’s designated provider of testing services to be tested in conformance with procedures as defined in the Vendor’s Procedures contained in Addendum “A” of this policy, **and consistent with federal regulations.**

7. POST-VIOLATION PROCEDURES

Alcohol Misuse Provisions. When an employee has a alcohol test result indicating 0.04% BAC or greater, the employee will be removed from, and not allowed to return to, safety-sensitive functions until:

- (A) The employee undergoes SAP evaluation, rehabilitation, or education
- (B) A Substance Abuse professional determines that the employee has successfully complied with any required rehabilitation; or education and
- (C) The Employee undergoes a return-to-duty test indicating a result of less than 0.02% BAC.

An employee with an alcohol test result indicating a BAC of at least 0.02%, but less than 0.04%, is not permitted to perform safety-sensitive functions until:

- (A) The next scheduled duty period (usually the next day, if at least eight hours have elapsed-24 hours for those regulated by FHWA); or

Controlled Substance Use Provisions. When an employee has a positive test result indicating the use of a controlled substance, the employee will be removed from, and not allowed to return to, safety-sensitive functions until:

- (A) the employee undergoes SAP evaluation and, where necessary, rehabilitation or education
- (B) a Substance Abuse Professional determines that the employee has successfully complied with any required rehabilitation or education and
- (C) the employee undergoes a return-to-duty test indicating a verified negative result.

Note: The rules do not confer any rights or consequences upon applicants or employees who have a positive result in a pre-employment test.

8. PROCEDURES TO PROTECT EMPLOYEE CONFIDENTIALITY

The Town of Trempealeau will maintain confidential records regarding the alcohol and controlled substance testing program in the **office of the Town Clerk/Treasurer**. Said location will be secured, with restricted access to the information. The only persons with direct access to these records are (1) the Town Chairman, (2) the Town Clerk/Treasurer, and (3) the employee **or other person authorized in writing by the employee**, upon request.

The following records will be accurately maintained to help ensure the confidentiality and reliability of test results:

Individual Records (Separate from personnel or medical)

- (A) alcohol test results indicating a BAC of 0.02% or greater;
- (B) verified positive controlled substance test results;
- (C) employee refusals of required alcohol and/or controlled substance tests;
- (D) calibration information regarding the tests;
- (E) employee evaluations and resulting referrals;
- (F) records related to both supervisor and employee training;
- (G) alcohol test results indicating a BAC of less than 0.02%; and
- (H) negative and/or cancelled controlled substance test results;

Group Records

- (A) records related to the alcohol and controlled substance testing collection process; and
- (B) a calendar year record survey summary of all individual test results.

9. TESTING SAFEGUARDS

The professional testing services provider hired by the Town of Trempealeau to administer the alcohol and controlled substance testing program will be required to submit for approval testing procedures that will assure the integrity and confidentiality of the testing program, safeguard the

validity of test results, and ensure that those results are attributed to the correct employee. A copy of those procedures will be part of this policy, and will be contained in Addendum “B”.

10. REFUSAL OF TESTING

This policy and federal law prohibits employees having CDLs as a condition of employment from refusing to submit to any required tests. The Town of Trempealeau will inform any employees --

In addition, any employee potentially subject to post-accident testing must remain readily available for such testing. **Readily available means at a location the Town Chairman has approved, where the employee may be immediately reached by phone or two-way radio.** An employee subject to post-accident testing who leaves the scene of the accident before a test is administered, or fails to remain available for testing, may also be deemed by the Town of Trempealeau to have refused to submit to testing.

11. INFORMATION ON EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCE USE

Pamphlets entitled “_____” are attached, and shall collectively be referred to as Addendum “C” of this policy. This information will help to explain the effects of alcohol misuse and controlled substance use on an individual’s health, work, and personal life. The pamphlets emphasize the signs and symptoms of an alcohol or controlled substance problem, and available methods of intervention when such a problem is suspected. Any employee who believes he/she may have an alcohol or controlled substance use problem is encouraged to seek assistance by contacting the Town of Trempealeau Chairman. The Town of Trempealeau will work to ensure that employees receive appropriate assistance and treatment, while protecting employees’ right to confidentiality.

- (A) According to the law, an employee is responsible for immediate reporting of any possible changes in CDL status to the Town of Trempealeau Chairman. Failure to comply with the law may result in disciplinary action, up to and including immediate discharge. It is also the employee’s responsibility to make every reasonable attempt to maintain his/her CDL license.
- (B) The Town Chairman may not necessarily grant a leave of absence to an employee who has lost his/her CDL. The leave of absence request will be evaluated based upon the length of time requested and staffing needs.

ADDENDUM A

ALCOHOL TESTING

Alcohol testing will be conducted by a Breath Alcohol Technician (BAT), or any other person approved by the US Department of Transportation (USDOT), using an Evidential Breath Testing device (EBT) as specified by applicable law, to measure the amount of breath alcohol concentration (BAC) in a volume of breath, or any other test used to detect the bodily presence of alcohol that is approved by the Federal Highway Administration (FHWA). All testing and related activities must conform to applicable law.

URINE DRUG COLLECTION AND TESTING

Urine specimen collection and controlled substance testing using a scientifically reliable method and performed in accordance with the United States Department of Health and Human Services (USDHHS) approve procedures to determine the presence of the following controlled substances: cocaine, marijuana, opiates amphetamines, and phencyclidine. All collecting, testing and related activities will conform to applicable law. Controlled substance testing shall be conducted by a USDHHS certified laboratory.

MEDICAL REVIEW OFFICER

Medical Review of urine drug results shall be performed by a licensed physician who has additional training in working with individuals who misuse controlled substances.