

## **POLICY # A3-9.1**

### **ALCOHOL AND DRUG USE AND TESTING POLICY FOR SAFETY-SENSITIVE DRIVERS**

#### **ALL SAFETY-SENSITIVE EMPLOYEES**

#### **STATEMENT**

The following is the policy of the Town of Wayland with regard to testing associated with alcohol misuse and drug use by those employees operating motor vehicles which require a Commercial Drivers License. A discussion of the physical effects of alcohol and certain drugs on the body is included as well. The terms alcohol misuse and drug use and substance abuse are used interchangeably in this document. The name and telephone number of the person who can answer any questions you may have about the alcohol and drug rules and assist you in substance abuse situations, appears on the last page of this policy.

#### **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 the U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

#### **APPLICABILITY**

In accordance with the Federal Highway Administration, Department of Transportation Alcohol and Drug ruling, this policy applies to all persons who operate a commercial motor vehicle (CMV) in interstate or intrastate commerce, and is subject to the commercial driver's license (CDL) requirements of part 383 or employees who perform a safety sensitive function for the Town of Wayland.

#### **TERMS AND ABBREVIATIONS**

BAT	Breath Alcohol Technician
CDL	Commercial Drivers' License
CMV	Commercial Motor Vehicles
DHHS	Department of Health and Human Services
DOT	Department of Transportation
EAP	Employee Assistance Program
EBT	Evidential Breath Testing

MRO            Medical Review Officer  
us                The Employer  
you               The Employee

## **DEFINITIONS**

### **Alcohol**

The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular and isopropyl alcohol.

### **Alcohol Concentration**

Also called alcohol content, the alcohol in a volume of breath, (expressed as grams of alcohol per 210 liters of breath) as indicated by an evidential breath test, such as a breathalyzer.

### **Alcohol Use**

The consumption of any beverage, mixture or preparation, including medications, containing alcohol.

### **Breath Alcohol Technician**

An individual who instructs and assists individuals in the alcohol testing process and operates and evidential breath-testing (EBT) device.

### **Confirmation Test**

*In alcohol testing:* a second test, following a screening test with a result of 0.02 or greater, that provides quantitative measurement of alcohol concentration.

*In drug testing:* a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from and uses a different technique and chemical principle from that of the alcohol-screening test.

### **Controlled Substances**

In this booklet, the terms 'drugs' and 'controlled substances' are interchangeable and have the same meaning. Unless otherwise provided, these terms refer to:

- marijuana
- cocaine
- opiates
- phencyclidine (PCP)
- amphetamines, including methamphetamines.

**Driver**

Any person who operates a commercial motor vehicle, (CMV) including:

- full-time regularly employed drivers
- casual, intermittent or occasional drivers
- leased drivers
- independent, owner-operator contractors who are either directly employed by or under contract to an employer or who operates a commercial motor vehicle (CMV) at the direction of or with the consent of an employer.

**Evidential Breath Testing Device**

A device used for alcohol breath testing that has been approved by the National Highway Safety Administration.

**Medical Review Officer**

A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history or other relevant biomedical information.

**Screening Test**

*In alcohol testing:* the initial test to determine if a driver has a prohibited concentration of alcohol in his or her system.

*In controlled substances testing:* a screen to eliminate 'negative' urine specimens from further consideration.

**Substance Abuse**

Refers to patterns of substance use that result in health consequences or impairment in social, psychological and occupational functioning.

**Substance Abuse Professional**

A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

## **SAFETY SENSITIVE FUNCTION**

A safety-sensitive function is defined as including any of the following circumstances and/or activities:

- at a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer;
- inspecting brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguishers, spare fuses, or warning devices for stopped vehicles;
- inspecting, serving, or condition any CMV in operation;
- at the driving controls of a CMV in operation;
- while in or upon any CMV, except when resting in a sleeper berth;
- supervising or assisting in loading or unloading a vehicle;
- attending a vehicle being loaded or unloaded;
- while in readiness to operate the vehicle;
- when giving or receiving receipts for shipments loaded or unloaded;
- performing the driver requirements of sections 392.40 and 392.41 of part 392, Driving Motor Vehicles, relating to accidents;
- repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## **ALCOHOL AND DRUG PROHIBITIONS**

The DOT refers to the restrictions for the use of both alcohol and controlled substances as prohibitions.

Alcohol prohibitions are tied to the performance of safety-sensitive functions in the following ways:

1. A driver may not report for duty or stay on duty
  - a. with a blood alcohol concentration of 0.04 or greater
  - b. if in possession of alcohol (unless it is being transported as cargo)  
*NOTE: this includes any product (medication, food or other product) containing alcohol, regardless of the alcohol content.*
  - c. if using alcohol
  - d. within four hours of using alcohol
2. A driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first.
3. Drivers cannot refuse to submit to alcohol testing.
4. Employers who know about any of the above acts cannot permit the driver to perform a safety-sensitive function.

The Federal Highway Administration bans the use of controlled substances by drivers.

Drug Prohibitions:

1. Drivers may not report for duty or stay on safety-sensitive duty while using any controlled substance. There may be an exception to this ruling if a physician has prescribed a substance and has advised you that it does not interfere with your ability to operate a vehicle in a safe manner.
2. Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.
3. Employers who know about either of the above acts cannot permit the driver to perform a safety-sensitive function.
4. Employers may require drivers to report the use of any therapeutic drugs.

**DRUG AND ALCOHOL TESTING**

There are five situations where testing can be done to determine the presence of alcohol and/or drugs.

1. Pre-employment

Before a new hire can perform any safety-sensitive duties or when a person transfers into a safety-sensitive function from elsewhere in the Town. *Note: no person will be considered for a Driver's position who has had a positive drug and/or alcohol test within two years of his or her application.*

2. Post-accident

Following an accident where

- a life was lost
- the driver was cited for a moving traffic violation.

Post-accident alcohol testing should be done within two hours of the accident. If a test cannot be done within eight hours, it probably will not be done. Post-accident drug testing shall be done within 32 hours, or not done at all.

3. Random

Unannounced random testing is required on a certain percentage of drivers each year. A random selection process shall be used to ensure each driver has an equal chance of being tested each time selections are made.

Drivers are randomly selected from the pool. Random testing for alcohol shall be completed just before, during or immediately after performing safety sensitive work. Random testing for drugs may be done at any time you are at work. Once you are notified that you have been selected for random testing, you must proceed immediately to the test site.

Random testing is done as follows:

- 25% of all drivers shall be randomly tested for alcohol during the first year of the testing program. The number to be randomly tested in the following years depends on the percentage of positive tests for the entire industry.

- 50% of all drivers shall be randomly tested for controlled substances during each year of the testing program.

#### 4. Reasonable suspicion

If the supervisor has reason to believe that your behavior or appearance may indicate alcohol or drug use. Testing for reasonable suspicion is based on:

- the observations of a trained supervisor
- specific, clearly stated observations concerning the driver's appearance, behavior, speech or body odor
- observations made for alcohol testing shall be made just before, during or just after the performance of a safety-sensitive function.

#### *Important points:*

- The supervisor, who makes the observation and determines that reasonable suspicion testing should be done, may not conduct the alcohol test on the driver.
- Alcohol testing for reasonable suspicion must be done within two hours of the observation. Tests that cannot be done within eight hours of the observation shall not be done.
- You cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech or performance that indicates alcohol misuse.
- You will not be allowed to continue to perform safety-sensitive duties until:

*Your alcohol concentration is less than 0.02*

*-or-*

*24 hours has passed from the time of the initial observation*

- Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.

#### 5. Return to duty and follow-up

- Return to duty testing is required for drivers who violate prohibitions and are returning to work. In order to return to work, an alcohol concentration of less than 0.02 or a negative drug test is required.

- Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six tests shall be performed during the first year back in a safety-sensitive position. However, follow-up testing may continue for up to five years. Cost of said testing will be born by the employee.

#### **Refusal to be tested**

As part of the alcohol and drug ruling, you must submit to alcohol and drug testing. If you refuse to be tested, you cannot continue on the job. Refusal to test is considered to

be any time you either fail to provide enough breath for alcohol testing or enough urine for controlled substances testing without a valid medical reason after being notified of the testing requirements, or if you clearly obstruct the testing process.

### **ALCOHOL TESTING PROCEDURE**

1. All alcohol testing is done by a certified Breath Alcohol Technician (BAT) in a private setting when no one but you and the BAT can see or hear the test results. An evidential breath-testing device (EBT) approved by the National Highway Safety Administration must be used.
2. The BAT will ask you for identification. You may ask for the BAT's identification as well.
3. To complete the test, you must blow forcefully into the mouthpiece of the testing device. The BAT must show you the test result on the testing device.
4. A screening test is done first. If the reading is less than 0.02, you will sign the certification and fill in the date on the form. The test will be reported as negative to the employer.
5. If the reading is 0.02 or greater, a confirmation test must be done (after 15 minutes but within 20 minutes of the first test), You will be asked not to eat, drink, belch or put anything into your mouth. These steps prevent the buildup of mouth alcohol, which could lead to an artificially high reading.
6. If the screening and confirmation test results are not the same, the confirmation test result is used.

*IF YOU REFUSE TO BE TESTED OR TO SIGN THE TESTING FORM, THE BAT WILL IMMEDIATELY NOTIFY YOUR SUPERVISOR.*

### **DRUG TESTING PROCEDURE**

1. Drug testing is done by analyzing a urine sample, which is collected in a private location.
2. Urine specimens are divided into two containers by the collection site person - in your presence. These two samples, called primary and split, are sent to a testing laboratory certified by the Department of Health and Human Services (DHHS).
3. At the laboratory, a screening testing is performed on the primary sample. If this test is positive for drugs, a confirmation test is required.

4. The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure the over-the-counter drugs are not reported as positive.

5. If the first test is positive, the Medical Review officer (MRO) will notify you to find out if there is a medical reason for the drug use. If you can document why the substance is being taken and the MRO finds it is legitimate medical use, the test may be reported as negative to the employer.

6. After being notified that the first test was positive, you have 72 hours to request a test of the split specimen. If you make this request, the split specimen is sent to another DHHS - certified lab for the test.

a. If you do not contact the MRO within 72 hours but can prove to the MRO that you had a legitimate reason for not doing so, the MRO can order the split specimen tested.

*REMOVAL FROM SAFETY-SENSITIVE DUTY AS REQUIRED BY THE DOT FOLLOWING A POSITIVE DRUG TEST IS NOT DELAYED TO AWAIT THE RESULT OF THE SPLIT SPECIMEN TEST.*

7. If the analysis of the split sample does not confirm the presence of a drug, the MRO cancels the test and reports this to the DOT, to the employer, and to you.

### **CONSEQUENCES OF ALCOHOL/DRUG MISUSE**

Alcohol violations:

a. Removal from safety sensitive functions

b. Anyone with an alcohol concentration of 0.02 or greater, but less than 0.04 cannot return to safety sensitive duties for at least 24 hours. Drivers who are serving a probationary period will be terminated immediately.

c. Anyone with an alcohol concentration of 0.04 or greater, cannot return to a safety sensitive job until an evaluation has been done; has complied with recommended treatment and a verified negative test is produced. Drivers who are serving a probationary period will be terminated immediately.

d. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol during the subsequent two (2) years, in accordance with this policy, will be terminated immediately.

e. Drivers who choose not to participate in a rehabilitation program will be terminated immediately.

Drug violations:

- a. Removal from safety sensitive functions
- b. A driver cannot return to a safety sensitive job until an evaluation has been done, has complied with recommended therapy and a verified negative test is produced. Drivers who are serving a probationary period will be terminated immediately.
- c. Drivers who have returned to work under these conditions and who subsequently test positive for drugs during the subsequent five (5) years, in accordance with this policy, will be terminated immediately.
- d. Drivers who choose not to participate in this rehabilitation program will be terminated immediately.

**TREATMENT POLICY**

Drivers who wish to continue employment with the Town of Wayland 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 or if available, the Town's Employee Assistance Program (EAP). Employees will be placed on non-occupational sick leave or leave without pay status during the treatment period, whichever is appropriate.

**TREATMENT**

The alcohol and drug rule requires the Town of Wayland to provide non-probationary employees with an opportunity for treatment. The ruling does not however, require us to hold a job open for you for longer than thirty (30) days or to pay for rehabilitation. These issues are handled according to this drug and alcohol policy.

If you violate an alcohol or drug prohibition, you must be evaluated by a substance abuse professional to determine what help is needed.

Before you can return to a safety sensitive job, you must:

- a. have an alcohol concentration of less than 0.02, or a verified negative drug test
- b. completed recommended treatment

Drivers who have been evaluated by a substance abuse professional, who have completed recommended treatment and who have taken a return to duty alcohol test with result less than .02 or a drug test which is negative, may return to work and are then subject to

unannounced follow-up tests, six during the first 12 months and may be up to six in each year up to five years, at the employees expense.

Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs during the subsequent five years, in accordance with this policy, will be terminated immediately.

### **THE EFFECTS OF ALCOHOL AND DRUGS**

*Alcohol*, a nervous system depressant, is the most widely abused drug. About half of all auto accident fatalities in this country are related to alcohol abuse. A 12-ounce can of beer, a 5-ounce glass of wine and a 1 1/2 ounce shot of hard liquor all contain the same amount of alcohol. Each 1/2 ounce of alcohol takes the average body about one hour to process and eliminate. Coffee, cold showers and exercise do not hasten sobriety.

Alcohol first acts on those parts of the brain that affect self-control and other learned behaviors. Low self-control often leads to the aggressive behavior associated with some people who drink. In large doses, alcohol can dull sensation and impair muscular coordination, memory, and judgment. Taken in larger quantities over a long period of time, alcohol can damage the liver and heart and cause permanent brain damage. On the average, heavy drinkers shorten their life spans by about ten years.

Other Effects:

- greatly impaired driving ability
- reduced coordination and reflex action
- impaired vision and judgment
- inability to divide attention
- lowering of inhibitions
- hangover, which can be accompanied by headaches, nausea, dehydration, unclear thinking, unsettled digestion and aching muscles

*Marijuana*, also known as ‘pot’, ‘weed’, ‘grass’ and other street names, alters the user’s sense of time and reduces the ability to perform tasks requiring concentration. The drug has a significant effect on judgment, caution, and sensory/motor functions.

Marijuana stays in the body for 28 days, unlike alcohol, which dissipates in a few hours.

Other Effects:

- impaired driving for at least 4 - 6 hours after smoking 1 ‘joint’
- restlessness
- inability to concentrate
- increased pulse rate and blood pressure
- rapidly changing emotions and erratic behavior
- altered sense of identity
- dulling of attention
- hallucinations, fantasies and paranoia

- reduction or temporary loss of fertility

*Cocaine* is a stimulant drug which increases heart rate and blood pressure. As a powder, cocaine is inhaled, ingested, or injected. Cocaine is also used as free-base cocaine known as 'crack' or 'rock', which is smoked. The crack 'high' is reached in 4-6 seconds and lasts for about 15 minutes.

Many people mistakenly believe that, because it is smoked, crack is safer than other forms of cocaine use. It is not. Crack cocaine is one of the most addictive drugs known today. The most dangerous effects of crack are that its use can cause vomiting, rapid heart beat, tremor and convulsions. All of this muscle activity increases the demand for oxygen, which can result in a cocaine-induced heart attack. Since the heat-regulating center in the brain is also disrupted, dangerously high body temperatures can occur. With high doses, brain functioning, breathing, and heartbeat are depressed, which can lead to death.

Other Effects:

- A rush of pleasurable sensations
- a heightened, but momentary, feeling of confidence, strength and endurance
- accelerated pulse, blood pressure and respiration
- impaired driving ability
- paranoia, which can trigger mental disorders in users prone to mental instability
- irritation of the nostrils and nasal membrane
- mood swings
- anxiety
- reduced sense of humor
- compulsive behavior, such as teeth grinding or repeated hand washing.

*Amphetamines* are drugs that stimulate the central nervous system and promote a feeling of alertness and an increase in speech and general physical activity. Some common street names for amphetamines are 'speed', 'uppers', 'blackbeauties', 'bennies', 'wake-ups', 'footballs', and 'dexies'.

People with a history of sustained low-dose amphetamine use quite often become addicted, believing that they need the drug to get by. These users frequently keep taking amphetamines to avoid the 'down' mood they experience when the drug wears off.

Even small, infrequent doses can produce toxic effects in some persons. Restlessness, anxiety, mood swings, panic, heart rhythm disturbances, paranoid thoughts, hallucinations, convulsions and coma have been reported. Long-term users often have acne resembling measles, trouble with their teeth, gums and nails, and dry, dull hair. Heavy, frequent use can produce brain damage resulting in speech disturbances.

Other Effects:

- Loss of appetite
- irritability, anxiety, apprehension

- increased heart rate and blood pressure
- difficulty in focusing eyes
- exaggerated reflexes
- distorted thinking
- perspiration, headaches, dizziness
- short-term insomnia

*Opiates* include heroin, morphine, codeine and narcotics used to relieve pain and induce sleep. Heroin, also called ‘junk’ or ‘smack’, accounts for 90% of the narcotic abuse in this country.

Sometimes narcotics found in medicines are abused. This includes pain relievers containing opium and cough syrups containing codeine. Heroin is illegal and cannot even be obtained with a physician’s prescription.

Most medical problems are caused by the uncertain dosage level, the use of unsterile needles, contamination of the drug, or the combination of a narcotic with other drugs. These dangers depend on the specific drug, its source and the way it is used.

Other Effects:

- short-lived euphoria
- impaired driving ability
- drowsiness, followed by sleep
- constipation
- decreased physical activity
- reduced vision
- change in sleeping habits
- possible death

*Phencyclidine or PCP*, also called ‘angel dust’, was developed as a surgical anesthetic in the late 1950s. Later, due to its unusual side effects in humans, it was restricted to use as a veterinary anesthetic and tranquilizer. Today, it has no lawful use and is no longer legally manufactured.

PCP is a very dangerous drug. It can produce violent and bizarre behavior even in people otherwise not prone to such behavior. More people die from accidents caused by erratic and unpredictable behavior produced by the drug than from the drug’s direct effect on the body.

PCP scrambles the brain’s internal stimuli and alters how users see and deal with their environment. Routine activities such as driving and walking become very difficult.

Low doses produce a rush, sometime associated with a feeling of numbness. Increased doses produce an excited, confused state including any of the following: muscle rigidity, loss of concentration and memory, visual disturbances, delirium, feelings of isolation and convulsions.

Other Effects:

- impaired driving ability
- drowsiness
- perspiration
- repetitive speech patterns
- incomplete verbal responses
- blank stare
- thick, slurred speech
- involuntary eye movement

The following person should be contacted to answer questions about the alcohol and drug rules and for assistance with drug and/or alcohol problems:

John Senchyshyn

Assistant Town Administrator/HR Director

(508) 358-3623

Personnel Board Revised:

May 1, 2002

**ATTACHMENT A**

Employee Confirmation of Receipt

I hereby certify that I was given a copy of the Town of Wayland Drug and Alcohol Testing Policy, and have been given an opportunity to ask questions of my supervisor about the content of the policy.

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Employee Name

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Department

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Employee's Signature

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Date