




TOWN OF MOORESVILLE ADMINISTRATIVE POLICY

Title: Federal Motor Carrier Safety Administration (FMCSA) Substance Abuse Policy for the Town of Mooresville	Staff Affected: Commercial Driver's License Holders References: None
Approved By:  <hr/> Town Manager	Approved: February 7, 2022 Effective: February 8, 2022 Rescinds: Drug & Alcohol Free Workplace (DOT) Policy Index #: AP-HR-005

1.0 SUPPLEMENTS

None.

2.0 DEFINITIONS

CDL Holder – Any employee who possesses a Commercial Driver License (CDL) from the State of North Carolina, Division of Motor Vehicles, and who is required to operate or repair a commercial motor vehicle for the Town of Mooresville.

Commercial Driver's License (CDL) – a driver's license required to operate large or heavy vehicles

Commercial Motor Vehicle – A vehicle which is:

1. In excess of 26,001 pounds GVWR;
2. designed to carry 16 or more passengers; or
3. used in the transportation of a large amounts of hazardous materials.

Alcohol- The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Controlled Substance- The U.S. Department of Transportation (DOT) requires testing for amphetamines, cannabinoids, cocaine, opiates, synthetic opiates (hydrocodone, hydromorphone, oxycodone, oxymorphone) phencyclidine, 6MAM (6 Acetyl-morphine), MDMA (Ecstasy) and prohibits the use of illegal substances and non-prescribed drugs.

Use of any drug, except by doctor's prescription, and then only if the doctor has advised the driver that the drug will not adversely affect the employee's ability to safely operate a CMV.

Medical Review Officer- is a licensed physician and possesses knowledge of drug abuse disorders. The MRO will review and interpret positive results obtained from the laboratory.

Substance Abuse Professional (SAP) – a licensed physician or a counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. These professionals must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

Designated Employer Representative- As defined in 49 CFR Part 40, the [Designated employer representative \(DER\)](#) is an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part.

FMCSA Drug and Alcohol Clearinghouse- The clearinghouse will contain records of violations of drug and alcohol prohibitions as outlined in 49 CFR Part 382, Subpart B including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty process and follow-up testing plan, this information will also be recorded in the Clearinghouse.

3.0 POLICY

In an effort to prevent the effects of substance abuse in the transportation industry, the Federal Motor Carrier Safety Administration (FMCSA) of the Department of Transportation, the DOT, has expanded its current drug and alcohol regulations for federal motor carriers. These regulations can be found in Title 49, the Code of Federal Regulations (CFR), Federal Motor Carrier Safety Regulations (FMCSR) Part 382, entitled, "Controlled Substances & Alcohol Use and Testing", and Part 40, entitled, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs".

To maintain a drug-free workforce and to eliminate the safety risks, lost time and reduced productivity that results from the use and influence of alcohol and/or drugs in the workplace, the Town of Mooresville hereafter called the Town, has adopted substance abuse policies. The intention of these policies is to make the Town a safer and better place to work.

4.0 ATTACHMENTS

CDL Limited Queries Consent Form

II. SCOPE:

Employees Subject to Testing:

All applicants for full or part time positions at the Town and all full time or part time employees being considered for, or currently performing safety sensitive duties as defined by 49 CFR Part 382.107 are subject to testing. This applies to every person who operates a CMV in intrastate commerce and is subject to the commercial driver's license requirements of 49 CFR Part 383.

Prohibited Substances:

Alcohol

- ❑ Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- ❑ No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater.
- ❑ No employee shall be on duty or operate a CMV while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.
- ❑ No employee shall use alcohol while performing safety-sensitive functions.
- ❑ No employee shall perform safety-sensitive functions within four hours after using alcohol.
- ❑ No employee required to take a post-accident test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- ❑ Refusals to test will be treated as if the employee has had a confirmed positive test result.

Controlled Substances/Illegal Substances/Non-Prescribed Controlled Substances

The U.S. Department of Transportation (DOT) requires testing for amphetamines, cannabinoids, cocaine, opiates, synthetic opiates (hydrocodone, hydromorphone, oxycodone, oxymorphone) phencyclidine, 6MAM (6 Acetyl-morphine), MDMA (Ecstasy) and prohibits the use of illegal substances and non-prescribed drugs.

No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.

No employee shall report for duty, remain on duty or perform a safety-sensitive function, if the employee has a positive drug test result verified by a certified Medical Review Officer (MRO), a physician trained and certified in analyzing and interpreting drug screen results.

Prescribed Medications:

All employees in safety-sensitive functions taking prescribed medications that could impair their ability to safely operate a CMV or related activities associated with loading, unloading, inspection and maintenance or other activity that is classified as "on duty time" defined in 49 CFR 395.2, must report this to their immediate supervisor or Designated Employer Representative (DER), the person or persons as directed by this policy that have been assigned by the Town to oversee and manage the DOT drug and alcohol testing program.

III. PROHIBITED CONDUCT:

Prohibited Conduct:

The Town prohibits any alcohol misuse, any drug use and/or adulterating of specimens, which could affect performance of safety-sensitive functions, including:

Alcohol:

1. Use while performing safety-sensitive functions
2. Use during 4 hours before performing safety-sensitive functions.
3. Reporting for duty or remaining on duty to perform safety-sensitive functions with an alcohol concentration of 0.02 or greater.
4. Possession of alcohol unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over the counter), unless the packaging seal is unbroken.
5. Use during the 8 hours following an accident, or until he/she undergoes a post accident test.
6. Refusal to take a required test.

NOTE: An employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions for at least 24 hours.

Controlled Substance:

1. Use of any drug, except by doctor's prescription, and then only if the doctor has advised the driver that the drug will not adversely affect the employee's ability to safely operate a CMV.
2. Testing positive for drugs.
3. Refusing to take a required test.

Consequences and Disqualifications:

1. The employee shall not perform or be permitted to perform, a safety-sensitive function if any of the above listed prohibitions are violated.
2. Any employee violating these prohibitions will be subject to disciplinary procedures as set forth herein and referred to a Substance Abuse Professional (SAP) for evaluation, regardless of employment status, as required by 49 CFR, Parts 40 and 382.

IV. TESTING CIRCUMSTANCES:

- *Pre-Employment Testing:*

All applicants for part-time or full-time safety-sensitive positions and all persons transferring from non- safety sensitive positions at the Town will be directed to submit to an alcohol and controlled substance test. A drug test will be conducted during the pre-employment process and a negative drug test result must be received before a final offer of employment is made.

- *Post-accident Testing:*

As soon as practicable following an occurrence involving a CMV operating on a public road in commerce, each employer shall test for alcohol and controlled substances for each of its drivers:

- (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- (2) Who receives a citation within 8 hours for alcohol testing or within 32 hours for controlled substance testing of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The alcohol test must be administered within 2 hours following the accident and in no case shall more than 8 hours elapse before the test is administered. The driver must refrain from using alcohol for 8 hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

The drug test must be administered within 32 hours following the accident. The driver must remain available for testing, or the Town will consider the driver to have refused to submit to testing.

All efforts to perform a FMCSA required drug test must cease after 32 hours. All efforts to perform a FMCSA required alcohol test must cease after 8 hours. All efforts to complete the tests within these time frames must be documented by the DER.

NOTE: Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident.

- *Random Testing:*

All employees who are subject to this policy will be subject to random testing for alcohol and controlled substances. Random testing will be done at the FMCSA Administrator's minimum annual percentage rate in a fair and equal manner. Selection of employees for random testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Each time a random selection is made, every employee will have an equal chance of being selected. Random tests will be unannounced and spread reasonably throughout the year. Employees when notified that they have been selected for random testing, will proceed immediately to the collection site.

For alcohol testing an employee shall only be tested while the employee is performing safety-sensitive functions, immediately prior to performing, at any time during performance or immediately after performing safety-sensitive functions.

For drug testing an employee may be tested at any time the employee is at work for the Town.

- *Reasonable Suspicion Testing:*

Any employee, who is subject to this policy, while on Town property, while operating a Town vehicle, or while engaging in Town business that acts in an abnormal manner sufficient to cause reasonable suspicion that he/she has violated this policy will be required to submit to an alcohol and/or a controlled substance test upon the approval and direction of one or more trained supervisors of the Town. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Decisions to request a Reasonable Suspicion Test will be made by supervisors trained per the requirements of FMCSR Part 382.603.

- *Return-to-duty Testing:*

Any employee who is subject to this policy that, based on Town approval, is allowed to return-to-duty following referral, evaluation, and treatment as a result of a positive alcohol and/or drug test will be required to submit to a return-to-duty alcohol and/or controlled substance test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. An alcohol concentration of less than 0.02 and a negative drug test will be required before a return-to-duty decision is made. All return-to-duty drug screen collections will be directly observed.

- *Follow-up Testing:*

In the event an employee is allowed to return to duty following referral, evaluation, and treatment, a minimum of 6 unannounced alcohol and/or drug tests will be required during the next 12 months of employment. Follow-up testing may continue for up to 60 months following return to duty at the Town's discretion, based on recommendations from the SAP. All follow-up testing will be directly observed.

- All alcohol testing will be done immediately before, during, or immediately after performing safety sensitive functions.
- Controlled substance testing may be performed at any time the employee is at work for the Town.

V. ALCOHOL TESTING:

Alcohol Technicians – Breath Alcohol Technician (BAT)/ Screening Test Technician (STT)

Alcohol testing will only be performed by a certified Breath Alcohol Technician (BAT) trained and certified in the principles of Evidential Breath Testing Devices (EBT) methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results OR a certified Screening Test Technician (STT) trained and certified in the principles of Alcohol Screening Devices (ASD) methodology, operation, and quality control; the procedures required for obtaining a breath or saliva sample and interpreting and recording ASD results. NOTE: The use of a STT requires that a certified BAT and EBT be available for confirmation testing within 30 minutes of a positive test result on an ASD.

Evidential Breath Testing Devices (EBT)/ Alcohol Screening Devices (ASD)

Alcohol testing will only be performed using EBT's and/or ASD's on the Conforming Products Lists (CPL) approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing must be either performed by a Certified BAT/STT employed by the Town or an outside BAT/STT. All alcohol testing will be conducted in a location that affords visual and aural privacy to the individual being tested. Unauthorized persons will not be permitted access to the testing location when a test is in progress. Alcohol testing will be performed using only the U.S. Department of Transportation Alcohol Testing Form (ATF).

Alcohol Testing Methodology

Using the EBT, the certified BAT will open an individually sealed mouthpiece and attach it to the EBT. The employee will be instructed to blow into the mouthpiece forcefully until an adequate amount of breath has been obtained. The EBT will record the result, display it on the device, and print the result immediately. The result will be recorded on the ATF and attached to the form with tamper proof tape and transmitted to the DER.

The STT will open a sealed ASD, showing the employee the Lot # and Expiration Date. The STT will instruct the employee to provide a sufficient breath or saliva sample per the manufacturer's instructions.

When the result is less than 0.02 no further testing is required. The results will be transmitted to the Company in a confidential manner and will be stored to ensure confidentiality is maintained.

When the result is 0.02 or greater, a confirmation test must be performed to verify the initial test. The confirmation test will be conducted no less than 15 minutes and no more than 30 minutes after the initial test. In the event the initial and confirmation test results are different, the confirmation test result is deemed to be the final result upon which any action under the terms of this policy shall be based.

NOTE: Should an ASD device indicate the presence of alcohol in a breath or saliva specimen at an 0.02 level or above, the STT will immediately contact the DER and make arrangements for a confirmation test on an EBT within 30 minutes. The confirmation test result is deemed to be the final result upon which any action under the terms of this policy shall be based.

Following the completion of the test, the BAT/STT will date the form and sign the certification on the form. The employee will sign the certification and fill in the date on the form. This ensures that each employee is attesting to the fact that the reported result is specific to the employee and is evidence of employee's consent.

Refusal to test will be treated the same as if the result is 0.04 or greater. Problems with testing and Refusals to test will be reported to the DER by the BAT/STT immediately.

VI. RECORDKEEPING:

The Town will maintain alcohol and drug test results in a secure and confidential manner, so that disclosure of information to unauthorized persons does not occur. Employee information shall only be released as required by law or as expressly authorized. Part 40 requires that the Town keep all verified negatives for at least one year and that they keep all verified positives for at least 5 years.

- An employee shall have access to any of his/her alcohol and drug testing records upon written request.
- The Town must allow any DOT authorized agency access to facilities and records in connection with the Town's alcohol misuse and drug abuse prevention program.
- When requested, the Town shall disclose post-accident testing information to the National Transportation Safety Board (NTSB) as part of an accident investigation.
- The Town will make records available to a subsequent employer upon receipt of a written request from the employee and as required by 49 CFR, Part 40.25.
- The Town may disclose information to the employee or to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual. This may include workers' compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.

VII. INSUFFICIENT SPECIMENS AND PROBLEMS IN TESTING:

Insufficient Specimens

If an employee attempts but fails to provide an adequate amount of breath, saliva or urine, the Town will be immediately notified and with consultation with the MRO, direct the employee to obtain, as soon as practical, an evaluation from a licensed physician who is acceptable to the Town concerning the employee's medical ability to provide an adequate amount of breath, saliva or urine. If the physician determines that there is a medical reason that prevents the employee from providing an adequate amount of breath, saliva or urine, he/she will provide the Town with a written statement of the basis for his/ her conclusion.

If the physician determines there is no medical reason to prevent the employee from providing an adequate amount of breath, saliva or urine, he/she will provide the Town with a written statement of the basis for his/her conclusion and it will be regarded as a refusal to take the test. This statement will be reviewed by the MRO to determine if a legitimate medical explanation exists. The terms of this policy for positive test results will then be administered.

Problems in Testing

Should a specimen be canceled due to a correctable or fatal flaw, the employee may be asked for a re-test, if applicable, by the MRO, BAT, STT or DER. Test results reported as "Positive Dilute" will be handled as a

verified positive test. Test results reported as “Negative Dilute” may be asked for a re-test, in which case, the specimen will be collected via DOT’s Direct Observation Procedures.

VIII. REFUSALS TO TEST

The following circumstances are considered a refusal to test under 49 CFR Part 40:

Drug Test Refusals

- (1) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the Town. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a Consortium/Third Party Administrator (C/TPA) (see §40.61(a));
- (2) Failure to remain at the testing site until the testing process is complete; provided, that an employee who leaves the testing site before the testing process commences (see §40.63 (c)) for a pre-employment test is not deemed to have refused to test;
- (3) Failure to provide a urine specimen for any drug test required by this policy or DOT agency regulations; provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63 (c)) for a pre-employment test is not deemed to have refused to test;
- (4) In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of your provision of a specimen (see §40.67(1) and §40.69(g));
- (5) Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.193(d) (2));
- (6) Failure or decline to take an additional drug test the Town or collector has directed you to take (see §40.197(b));
- (7) Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under §40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;
- (8) Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, failure to wash hands after being directed to do so by the collector);
- (9) For an observed collection, failure to follow the observer’s instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process;

(11) Admit to the collector or MRO that you adulterated or substituted the specimen;

(12) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test;

(13) As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for an MRO verified positive drug test;

Alcohol Testing Refusals

(1) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the Town. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see §40.241(a));

(2) Failure to remain at the testing site until the testing process is complete; provided, that an employee who leaves the testing site before the testing process commences (see §40.243(a)) for a pre-employment test is not deemed to have refused to test;

(3) Failure to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT agency regulations; provided, that an employee who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process commences (see §40.243(a)) for a pre-employment test is not deemed to have refused to test;

(4) Failure to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.265(c));

(5) Failure to undergo a medical examination or evaluation, as directed by the Town as part of the insufficient breath procedures see (§40.265(c));

(6) Failure to sign the certification at Step 2 of the ATF (see §40.241(g) and §40.251(d));

(7) Failure to cooperate with any part of the testing process;

(8) As an employee, if you refuse to take an alcohol test, you incur the same consequences specified under DOT agency regulations for confirmed alcohol test results of 0.04 or greater.

IX. SPECIMEN COLLECTION PROCEDURES:

- Urine specimens for the purposes of all required DOT drug tests will be obtained by collectors trained and certified as required by 49 CFR Part 40. Specific guidelines will be followed in urine specimen collections for the purpose of drug testing. In accordance with the Department of Health and Human Services (DHHS) guidelines, clear and well documented procedures for collection, shipment and accession of urine specimens from the collector to the laboratory will be followed. These procedures will account for the integrity of each urine

specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

- The Town may choose to do urine specimen collections in-house or utilize the services of an outside source, which may be a doctor's office, clinic, hospital or other facility that meets security requirements as specified by DHHS guidelines. The collection site will be a secure location to allow for maximum privacy, which includes a full-length privacy door for completion of urination, a source of water for washing hands and, where practicable, excluded from the area provided for urination. Cleansing agents such as moist towelettes may be used.
- No other person will be present or gain access to the collection area during the collection process. All specimens must remain in the direct control of the collection site person. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.
- When reporting to a collection site for specimen collection each employee will be required to provide photo identification (ID). Employees will be asked to remove all unnecessary outer garments (i.e., coat or jacket), and secure all personal belongings (individual may retain his/her wallet).
- Employees will be allowed to provide his/her specimen in the privacy of a stall. A split sample method of collection will be used. At least 45 ml of urine must be collected, 30 ml to be used as the primary specimen and 15 ml to be used as the split specimen. Both bottles will be shipped in a single container.
- The employee will be allowed up to 3 hours to provide a 45 ml specimen in the event he/she is unable to provide 45 ml upon the first attempt as instructed by the collector. During this period, the employee will be allowed to consume no more than 40 fluid ounces spread reasonably over throughout the 3-hour period.
- If the collection site person believes tampering or adulteration has occurred, a second specimen shall be collected immediately under the direct observation of a same gender collection site person. Both samples will be sent to the lab.
- Refusal to test will be handled the same as a verified positive result.
- In all cases the employee and the collection site person shall keep the specimen in view at all times prior to being sealed and labeled. The specimen will be labeled with tamperproof seals and the employee will sign appropriate places on the Chain of Custody and initial the seal on the bottle attesting to the fact that the specimen is specific to the individual providing the sample.

NOTE: Problems with the collection and refusals to test will be reported immediately to the DER by the collector.

X. TESTING METHODOLOGY:

Only laboratories certified by the DHHS will be used for drug urinalysis. The Town utilizes a SAMSHA laboratory for all DOT required testing.

Every specimen is required to undergo an initial Enzyme Multiplied Immunoassay Technique (EMIT) screen followed by Gas Chromatography Mass Spectroscopy (GCMS) confirmation of all positive screen results. This screen-confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine.

Reporting of Results:

The laboratory is required to report the test results directly to the Town's MRO within 5 working days. The report shall indicate the drug/metabolites tested for, whether the results are positive or negative, the specimen number assigned by the Town and the drug testing laboratory identification number.

XI. REVIEW OF RESULTS/MRO:

The MRO is a licensed physician and possesses knowledge of drug abuse disorders. The MRO may be an employee of the Town or one contracted to provide the services required. The MRO will review and interpret positive results obtained from the laboratory.

The MRO through a verification process will assess and determine whether alternate medical explanations could account for the positive test results. The MRO may conduct medical interviews of the employee, review the employee's medical history, and review any other relevant bio-medical factors. The MRO may direct that a medical examination be conducted as part of the review process. Additionally, the MRO will examine all medical records and data made available by the tested individual, such as evidence of prescribed medications.

The MRO will give the individual testing positive an opportunity to discuss the test results prior to making a final decision. After the final decision is made, the MRO will notify the Town as prescribed below.

If during the course of an interview with an employee who has tested positive, the MRO learns of a medical condition, which could, in the MRO's reasonable medical judgment, pose a risk to safety, the MRO may report that information to the DOT or to the Town.

The MRO will notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen.

If the employee makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to another certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or intestable, the MRO will cancel the test and report cancellation and the reasons for it to the DOT, the Town, and the employee.

If the MRO, after making and documenting all reasonable efforts is unable to contact the tested person, the MRO will contact the DER of the Town to arrange for the employee to contact the MRO prior to going on duty.

Within 5 days after a documented contact from the DER of the Town instructing the employee to contact the MRO, the employee has not done so, the MRO will verify the test positive and report it to the Town..

XII. DISCIPLINE AND CONSEQUENCES:

- **Pre-Employment/Pre-duty:**

An applicant for part-time, full-time or transfer from non safety sensitive to a safety sensitive position with a verified positive controlled substance test result will be denied employment in the safety sensitive function. In the event the employee is transferring from a non-DOT position to a FMCSA defined safety sensitive function and has a

verified positive DOT pre-employment test, the employee will be denied employment in the DOT position, subject to SAP Referral and subject to Town policy on verified positive results.

- **Reasonable Cause:**

Any employee of the Town subject to the terms of this policy, as a result of reasonable cause testing, with a verified positive controlled substance test result and/or an alcohol breath test with a confirmed test result of 0.04 or greater will be immediately removed from safety sensitive functions, referred to a qualified SAP for assessment and evaluation and terminated. Any recommended treatment must be completed prior to resuming safety sensitive functions for this or any motor carrier.

If the confirmed alcohol breath test result is 0.02 or greater but less than 0.04 the employee will be removed immediately from safety sensitive functions for 24 hours.

- **Post-Accident:**

Any employee of the Town subject to the terms of this policy, as a result of a post-accident test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.04 or greater will be immediately removed from safety sensitive functions, referred to a qualified SAP for assessment and evaluation and terminated. Any recommended treatment must be completed prior to resuming safety sensitive functions for this or any motor carrier.

If the confirmed alcohol breath test result is 0.02 or greater but less than 0.04 the employee will be removed immediately from the safety-sensitive function for 24 hours.

- **Random:**

Any employee of the Town subject to the terms of this policy, as a result of a random test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.04 or greater will be immediately removed from safety sensitive functions, referred to a qualified SAP for assessment and evaluation and terminated. Any recommended treatment must be completed prior to resuming safety sensitive functions for this or any motor carrier.

If the confirmed alcohol breath test result is 0.02 or greater but less than 0.04 the employee will be removed from safety sensitive functions for 24 hours.

- **Return- to -Duty/Follow- Up Testing:**

Upon returning to work for Town or any motor carrier following substance abuse treatment, the employee will be subject to a Return- to -Duty test and at least 6 unannounced Follow- Up tests during the first 12 months back at work. Return- to- Duty tests and Follow- Up urine specimen collections will be conducted using 49 CFR Part 40 "DOT's Direct Observation Procedures".

In the event that a confirmed alcohol test result on a RTD or Follow Up Test result is 0.02 or greater but less than 0.04 the employee will be removed from safety sensitive functions for 24 hours.

ATTENTION: Upon notification to the DER of a verified positive DOT controlled substance test by the MRO and/or a confirmed positive DOT alcohol test with a result of 0.04 or greater by a DOT BAT, the employee will be immediately removed from safety sensitive functions, terminated and referred to a qualified SAP. The SAP will determine what type of treatment is needed. The employee must complete all recommended treatment before returning to work at any motor carrier.

Upon completion of treatment, the SAP will issue a letter of clearance with instructions for Return- to- Duty and Follow- up Testing. The employee must submit to a Return- to -Duty test, directly observed. The result must be reported as negative to the DER before the employee may resume safety sensitive functions at any motor carrier.

The employee must submit to at least 6 unannounced Follow- Up tests, directly observed, during the first 12 months after returning to duty for any motor carrier. The SAP may direct more than 6 Follow- Up tests.

Costs of SAP assessments, evaluations and treatment will be the responsibility of the employee.

XIII. SUBSTANCE ABUSE PROFESSIONAL (SAP) REFERRALS

In all cases with a verified positive controlled substance test result and/or a confirmed alcohol breath test result the employee will be referred to an SAP for evaluation, referral, and treatment.

XIV. FMCSA DRUG AND ALCOHOL CLEARINGHOUSE

Effective January 6, 2020, FMCSA will require that commercial drivers that commit violations of 49 CFR Part 382, Subpart B, be reported into a national FMCSA database called “FMCSA Drug and Alcohol Clearinghouse” The clearinghouse will contain records of violations of drug and alcohol prohibitions as outlined in 49 CFR Part 382, Subpart B including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty process and follow-up testing plan, this information will also be recorded in the Clearinghouse.

The following information will be reported and included in the clearinghouse:

- A verified positive, adulterated, or substituted drug test result.
- An alcohol confirmation test with a concentration of 0.04 or higher.
- A refusal to submit to any test required by subpart C of this part.
- An employer's report of *actual knowledge*, as defined in FMCSR Part 382.107. *Actual knowledge* for the purpose of this policy, means *actual knowledge* by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing.
- On duty alcohol use pursuant to FMCSR Part 382.205, which states that no driver shall use alcohol while performing safety-sensitive functions. No employer having *actual knowledge* that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.
- Pre-duty alcohol use pursuant to FMCSR Part 382.207, which states that no driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having *actual knowledge* that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.
- Alcohol use following an accident pursuant to FMCSR Part 382.209, which states that if a driver is required to take a post-accident alcohol test under FMCSR Part 382.303, then that driver shall not use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

- Controlled substance use pursuant to FMCSR Part 382.213 which states that:
 - (a) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule I.
 - (b) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR Part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in FMCSR Part 382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a CMV.
 - (c) No employer having *actual knowledge* that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety sensitive function.
 - (d) The Town requires a driver to inform the DER of any therapeutic drug use. If the driver fails to report this to the Town, it is a violation.
- A SAP report of the successful completion of the return-to-duty process.
- A negative return-to-duty.
- An employer's report of completion of follow-up testing.

Drivers will be provided with instructions and information on how to register in the FMCSA clearinghouse electronically and will be encouraged to check their data on a regular basis for accuracy. Drivers will be provided with information on how to request corrections in the clearinghouse. Drivers will be provided with educational materials on the clearinghouse.

The Town will conduct a Full Query on CDL licensed operators during the hiring process. A driver must have no violations in the clearinghouse in order to move forward in the hiring process. Limited Queries will be conducted annually. A Full Query will be conducted if the Limited Query shows any violations. The required driver consents will be obtained prior to conducting any queries.

XIV. OTHER

- Reasonable Suspicion Training will be provided to all supervisors and employees as required by FMCSR Part 382.603.
- Educational materials and a copy of the Town substance abuse policy as required by FMCSR Part 382.601 will be provided to all employees who are subject to this policy.

Company officials designated to answer questions about this policy:

Name Christopher Russell

Phone Number-704-662-3524

Driver Receipt of FMCSA Substance Abuse Policy

(Revised 2022)

I, the undersigned, do hereby attest that I have read, understand and will comply with the terms in this policy as required by FMCSR Part 382 and 49CFR, Part 40.

Name (Print)

Date

Name (Signature)

Attachment CDL Limited Queries Consent Form



Town of Mooresville
413 N. Main Street
Mooresville, NC 28115

I, _____, hereby provide consent to the Town of Mooresville to conduct any number of limited queries of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

This general consent is only provided for limited queries but is given for the duration of my employment as a CDL driver with the Town of Mooresville.

I understand that if the limited query conducted by the Town of Mooresville indicates that drug or alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information to the Town of Mooresville without first obtaining additional specific consent from me. I further understand that if I refuse to provide consent for the Town of Mooresville to conduct a limited query of the Clearinghouse, the Town of Mooresville must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

The Town of Mooresville is required by FMCSA that commercial drivers that commit violations of 49 CFR Part 382, Subpart B, be reported into a national FMCSA database. The clearinghouse will contain records of violations of drug and alcohol prohibitions as outlined in 49 CFR Part 382, Subpart B including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty process and follow-up testing plan, this information will also be recorded in the Clearinghouse.

Driver's Signature: _____

Printed Name: _____ Date: _____