

Alcohol Misuse and Controlled Substance Abuse and Testing Policy

DOT/FMCSA

Marshall Municipal Utilities

75 E. Morgan

Marshall, Mo. 65340

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Human Resources Manager

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I. POLICY STATEMENT

The purpose of this policy is to establish procedures to comply with the Department of Transportation's (DOT) Federal Motor Carrier Safety Administration's (FMCSA) controlled substances and alcohol use and testing rules, pursuant to the Code of Federal Regulations, Title 49 (49 CFR), Part 382.

Any job applicant applying for a position covered in this policy who refuses a pre-employment drug test will not be hired. Any applicant who tests positive for drugs will not be hired. Any employee covered by this policy who refuses a drug or alcohol test, tests positive for drugs, or has a breath alcohol test showing a level of .02 or greater, will immediately be removed from the functions covered by the regulation and may be subject to such further disciplinary action, up to and including termination, as may be warranted under the circumstances.

II. APPLICABILITY

This policy and the regulations that require it, apply to all employees who operate commercial motor vehicles (CMV) requiring a commercial driver's license (CDL). This policy is in addition to, and does not replace, MMU's Personnel Policy as it relates to pre-employment physicals, hiring, testing, transfers, training, drugs and alcohol, disciplinary procedures, grounds for dismissal or any other area that may be addressed therein.

III. DEFINITIONS

- A. "Alcohol" - refers to the intoxicating agent in beverage alcohol, ethyl alcohol, or other alcohols including methyl and isopropyl alcohol.
- B. "Alcohol Concentration" - is the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this policy.
- C. "Alcohol Use" - refers to the consumption of any beverage, mixture or preparation (including medication) which contains alcohol.
- D. "Breath Alcohol Technician or BAT" - an individual who instructs and assists persons in the alcohol testing process and operates an EBT (Evidential Breath Testing) device.
- E. "Confirmation Test" –
 - 1. for alcohol, means a subsequent test, following a screening test with a result of 0.02 or greater, that provides quantitative data about alcohol concentration.
 - 2. for controlled substances, this means a second analytical procedure to identify and quantify the presence of a specific drug or drug metabolite.
- F. "Collection Site Person" - A person who instructs and assists individuals at a collection site and who receives and renders an initial examination of urine specimens.
- G. "Company" – Marshall Municipal Utilities (MMU).
- H. "Controlled Substances" – Those substances identified in Title 49 (49 CFR) Part 40: marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids.
- I. "Designated Employer Representative or DER" – the Human Resources Manager.
- J. "Driver" - Any employee who operates a commercial motor vehicle.
- K. "Drug" - Includes controlled substances as defined above.
- L. "Employer" – MMU
- M. "Medical Review Officer or MRO" - A licensed physician (Doctor of Medicine or Osteopathy) responsible for receiving and reviewing laboratory results generated by MMU's drug testing program who has knowledge of substance abuse disorders and who has appropriate medical training to interpret and evaluate an individual's positive test result, together with his or her medical history and any other relevant biomedical information.

- N. "Performing a Safety-Sensitive Function" - means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions as listed below in the definition "Safety Sensitive Function".
- O. "Reasonable Suspicion" or "Reasonable Cause" - is the belief that the driver has violated the alcohol or controlled substances prohibitions, based on specific, contemporaneous, articulable **observations** concerning the appearance, behavior, speech, or body odors of the driver.
- P. "Refusal to Submit, Refuse, or Refuse to Take" – consistent with DOT procedures concerning refusal to take a drug test or refusal to take an alcohol test, as described in 49 CFR Part 40, means that a driver:
1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by MMU, after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called by a Consortium/Third Party Administrator (C/TPA);
 2. Fails 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 for a pre-employment test is not deemed to have refused to test;
 3. Fails to provide a urine specimen for any drug test or breath sample for any alcohol test required by DOT agency regulations; provided, that an employee who does not provide a urine specimen or breath sample because he or she has left the testing site before the testing process commences 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, fails to permit the observation or monitoring of his or her provision of a specimen;
 5. Fails to provide a sufficient amount of urine or breath for testing, and it has been determined, through a required medical examination, that there was no adequate medical explanation for the failure.
 6. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER concerning the evaluation of insufficient breath or urine procedures;
 7. Fails or declines to take an additional drug test the employer or collector has directed the employee to take (for example, following a negative dilute result);

8. Fails to cooperate with any part of the testing process or engages in conduct that clearly obstructs the testing process;
9. For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process;
10. Possesses or wears a prosthetic device or other device that could be used to interfere with the collection process;
11. Is reported by the MRO as having adulterated or substituted a specimen.

Q. "Safety-Sensitive Function" - means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at any MMU-owned facility, or other property, or on any public property, or otherwise waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by the regulations, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving, spent on or in a commercial motor vehicle.
5. All time loading or unloading a commercial motor vehicle, supervising, or assisting in this process, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle.
6. All time spent performing requirements relating to accidents (including time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle).

R. "Substance Abuse Professional or SAP" - is a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or a drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

IV. ALCOHOL AND CONTROLLED SUBSTANCE PROHIBITIONS

- A. No employee shall report for duty or remain on duty for the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- B. No employee shall possess any quantity of alcohol while on duty. This includes any medicines, both prescription and over-the-counter, food, or any other alcohol-containing products.
- C. No employee shall use alcohol while on the job.
- D. No employee shall perform safety-sensitive functions within four hours after using alcohol.
- E. When involved in an accident that requires a post accident alcohol test, the employee shall not use alcohol within eight (8) hours of the accident or prior to submitting for the post-accident test, whichever comes first.
- F. No employee shall refuse to submit to a drug or alcohol test as required by this policy. Any refusal will be treated in the same manner as a positive test.
- G. No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when the use of a non-Schedule I substance is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle. **Note:** The use of marijuana or the use of any other Schedule I drug is not a legitimate medical explanation. It remains unacceptable for any employee subject to drug testing under the DOT's drug testing regulations to use marijuana.
- H. No employee shall report for duty or remain on duty if the employee tests positive for controlled substances.

V. ALCOHOL AND CONTROLLED SUBSTANCE TESTING

DOT tests are completely separate from any non-DOT tests required by MMU's Personnel Policy. DOT tests take priority over any non-DOT test in all regards.

Employees subject to this policy will be required to submit to alcohol and controlled substance testing under the following types of tests:

A. PRE-EMPLOYMENT TESTING

- 1. All individuals the company intends to hire for a position covered by this policy will be subject to a pre-employment drug test prior to the first time the driver performs a safety-sensitive function.

2. The covered applicants/employees will be notified that a urine sample will be tested for the presence of controlled substances.
3. A pre-employment drug test will be conducted when a current employee transfers from a position not covered by this policy into a covered position. An employee who previously is separated from an alcohol and controlled substance testing program position will be pre-employment tested prior to performing a function covered by this policy.
4. All applicants who are offered a position covered by this policy will be tested before being employed. Pre-employment job applicants who test positive for drugs will not be hired and do have the right to have their samples retested under the conditions set forth in Section VII of this policy. Employees transferring into a position requiring drug testing who test positive for drugs do have the right to have their sample retested. Employees who fail a drug test will not be hired for the position requiring testing.
5. An employee who transfers from one position covered by this policy to another covered by this policy does not require pre-employment testing.
6. Employees working in a position covered by this policy on the effective date, and continuing to work in a covered position, do not require a pre-employment test.

B. RANDOM TESTING

1. All employees working in a position covered by this policy are subject to unannounced testing based on random selection. This includes temporary employees performing work in a covered position.
2. The testing rate will be as determined annually by the FMCSA (for 2020, the minimum annual percentage rate for controlled substances testing is 50% and for alcohol is 10% of the average number of covered employees). These tests will be spread reasonably throughout the year.
3. To assure that the selection process is random, all employees covered by this policy will be placed in a common pool. All full time and temporary employees will be in this pool.
4. Employees will be selected for testing by use of a scientifically valid method under which each employee has an equal chance of being selected each time selections are made.
5. An employee can be tested randomly for control substances at any time during his/her work day. Random alcohol tests will be conducted while the employee is performing safety-sensitive functions, immediately prior to or after performing a safety-sensitive function.

6. Once an employee is notified of the requirement to take a random alcohol and/or controlled substance test, the employee must proceed to the test site immediately.

C. REASONABLE CAUSE / SUSPICION TESTING

1. Employees will be tested when there is reasonable cause to believe that an employee covered by this policy has violated alcohol and/or controlled substance prohibitions.
2. Conduct by employees constituting reasonable suspicion must be based on the specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. For controlled substances the observation may include the indications of the chronic and withdrawal effects of controlled substances. This conduct must be witnessed by, and the decision to administer a reasonable cause test made by, two supervisors or company officials, one of whom has received appropriate training in the identification of actions, appearance, and conduct of an employee which are indicative of the use of alcohol or controlled substances.
3. Reasonable suspicion testing for alcohol is authorized only if the observations are made during, just before, or just after the employee's work day.
4. A reasonable suspicion test for alcohol must be conducted within two hours after the employee was notified. If the test is not conducted within two hours, a written record stating the reasons the alcohol test was not promptly administered must be completed. If the test is not administered within eight hours following the notification, attempts to administer an alcohol test will be ceased and reasons documented for not administering the test.
5. A written record shall be made of the observations leading to a controlled substance or alcohol reasonable suspicion test, and signed by both supervisors who made the observation, within 24 hours of the observation.

D. POST ACCIDENT TESTING

Note: nothing in this policy shall be construed as to require the delay of necessary medical attention for injured persons following an accident, or to prohibit an employee from obtaining necessary emergency medical care.

1. As soon as practicable following an accident involving a commercial motor vehicle, tests for alcohol and controlled substances shall be administered for each surviving driver:

- a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b. Who receives a citation under state or local law for a moving traffic violation arising from the accident.
2. An alcohol test must take place within two (2) hours following the accident. If the test is not conducted within two hours, a written record stating the reasons the alcohol test was not promptly administered must be completed. If the test is not administered within eight hours following the accident, attempts to administer an alcohol test will be ceased and reasons documented for not administering the test.
 3. An employee subject to alcohol testing shall not use alcohol for eight (8) hours following an accident, or until he/she undergoes a post-accident alcohol test.
 4. If a required controlled substance test is not administered within 32 hours after the accident, attempts to administer the test will be ceased and reasons documented for not administering the test.
 5. An employee who is subject to post-accident testing must remain readily available for testing or he/she will be considered as refusing to submit to testing.
 6. The results of a breath or blood test for the use of alcohol, or a urine test for the use of controlled substances, conducted by Federal, state or local officials having independent authority for the test, will be considered to meet the requirements of this section.

E. RETURN-TO-DUTY-TESTING

1. Before an employee returns to duty requiring the performance of a safety-sensitive function, after engaging in prohibited conduct regarding alcohol misuse and/or controlled substance use, the employee will be tested for alcohol and/or controlled substances. In order to return to duty, an employee must test negative for controlled substances and have a breath alcohol concentration of less than 0.02. Return-to-duty tests for controlled substances must be conducted under direct observation.

F. FOLLOW-UP TESTING

1. Any employee who has violated the alcohol and/or controlled substance prohibitions in this policy shall, after returning to duty, be subject to unannounced follow-up testing. The number and frequency of the tests will be determined by the substance abuse professional (SAP). Follow-up testing may be scheduled for a period of up to sixty (6) months, and must consist of at least six tests in the first 12 months following the employee's return-to-duty. Follow-up tests for controlled substances must be conducted under direct observation.

G. DIRECTY OBSERVED COLLECTIONS (DIRECT OBSERVATION)

1. A direct observation collection for controlled substances testing will be conducted by an individual who is the same gender as the employee being tested, unless the individual is a medical professional.
2. A directly observed collection for controlled substances testing is required in the following situations:
 - a. A laboratory reports to the MRO that a drug test result is invalid and the MRO reports to the employer that there is not an adequate medical explanation for the invalid result.
 - b. The MRO reports to the employer that an original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed.
 - c. The MRO informs the employer that a negative test was dilute and directs the employer to conduct a recollection under direct observation (this occurs when the creatinine concentration of the negative-dilute specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL).
 - d. The drug test is a return-to-duty or follow-up test.
 - e. A collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
 - f. The temperature of an original urine specimen is outside of the acceptable range or the specimen appears to have been tampered with.
3. The observer shall be the same gender as the employee being tested. The observer can be someone other than the collector and need not be a qualified collector (i.e., the observer may be a MMU supervisor).
4. The observer must request the employee to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process (after which, the observer can permit the employee to return clothing to its proper position for observed urination).
5. The observer must watch the employee urinate into the collection container.
6. If the observer is not the collector, the observer is not permitted to take the collection container from the employee. Instead, the observer must watch the specimen as the employee takes it to the collector.

7. If an employee declines to allow a directly observed collection, it is considered a refusal to test.

VI. CONSEQUENCES OF ALCOHOL MISUSE AND DRUG USE

- A. No employee who has engaged in conduct prohibited by this policy shall perform or continue to perform a safety-sensitive function unless the employee has:
 1. been advised of the resources available for evaluating and treating alcohol and controlled substance abuse; and
 2. been evaluated by a substance abuse professional to determine what assistance, if any, is required to the employee;
 3. followed any rehabilitation program prescribed; and
 4. has been informed that he/she is subject to return-to-duty and follow-up testing.
- B. Any employee who is found to have engaged in conduct prohibited by this policy shall be: (detection of the presence of a controlled substance or an alcohol concentration level of 0.04 or greater)
 1. immediately removed from duty;
 2. be evaluated by a substance abuse professional (SAP) to determine what assistance, if any, the employee needs in resolving problems of alcohol and/or drug misuse and complete any rehabilitation prescribed;
 3. subject to return-to-duty testing and follow-up testing in accordance with the provisions of this policy;
 4. evaluated by the SAP to determine that the employee had followed the rehabilitation program; and/or
 5. subject to disciplinary action, up to and including termination, as outlined in the Marshall Municipal Utilities Personnel Policy.
- C. Any employee subjected to an alcohol test as required by this policy who is found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall not be allowed to perform or continue to perform safety-sensitive functions until the start of the employee's next regularly-scheduled duty period and may be subject to disciplinary action, up to and including termination, as outlined in the Marshall Municipal Utilities Personnel Policy. In no case should the employee's return to work be less than 24 hours following the administration of the test.

VII. TESTING PROCEDURES

The collection agency and the testing laboratory shall adhere to all requirements outlined in 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

A. The company providing collection and C/TPA services for this policy is:

Drug Testing

Tomo Drug Testing
2055 S. Stewart Ave. Ste. A
Springfield, MO 65804
(417) 887-7697

Alcohol Testing

Tomo Drug Testing
2055 S. Stewart Ave. Ste. A
Springfield, MO 65804
(417) 887-7697

B. The testing laboratory for this policy is:

Alere Toxicology
1111 Newton Street
Gretna, LA 70053
(504) 361-8989 or (800) 433-3823

C. Controlled substances - Sample collection and testing.

1. Drug testing will be performed utilizing urine samples.
2. Tests for marijuana, cocaine, opioids, amphetamines and phencyclidine will be performed.
3. Upon notification that a drug test is required, an employee will report as soon as possible after notification to the drug collection site and provide a specimen of his/her urine.
4. The "split specimen" procedures will be used as outlined in part 40 of the DOT regulations. A driver whose urine specimen has tested positive for a controlled substance has the option (within 72 hours after being notified by the MRO) of having the remaining portion of the split specimen tested at another laboratory. The company may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the specimen, but the employee must be reimbursed for such expense if the retest is negative.

D. Alcohol - Sample collection and testing.

1. Alcohol testing will be performed utilizing breath samples.
2. All samples will be collected by a "Breath Alcohol Technician (BAT) which has been trained in proficient operation of the evidential breath testing device (EBT) and in the alcohol testing procedures contained in 49 CFR Part 40.

3. Testing will be conducted in a location that affords visual and aural privacy to the individual being tested, sufficient to prevent unauthorized persons from seeing or hearing test results.

VIII. REPORTING AND REVIEW OF RESULTS

A. Controlled Substances

1. The Medical Review Officer (MRO) for this policy is:

Steven Paschall
Nationwide Medical Review
7160 Graham Rd
Indianapolis, IN 46250
(317) 547-8620

2. The following is a listing of the MRO's specific responsibilities. For additional details of responsibilities see the U.S. Department of Health and Human Services (DHHS) Medical Review Officer manual.
 - a. Receive all results from laboratory.
 - b. Request, if needed, a quantitative description of test results.
 - c. Receive a certified copy of the original chain of custody.
 - d. Review and interpret positive test results.
 - e. Inform the tested individual and provide test results for positive test.
 - f. Attempt to contact and interview the tested employee when results are positive, adulterated, substituted, and/or invalid.

If, after making all reasonable efforts and documenting them, the MRO is unable to reach the employee directly, the MRO shall contact the DER who shall direct the employee to contact the MRO as soon as possible. If it becomes necessary to reach the employee through the DER, the DER shall employ procedures that will ensure to the maximum extent practical, that the requirement that the employee contact the MRO is held in confidence. If the DER has successfully made and documented a contact with the employee and has instructed the employee to contact the MRO and more than 72 hours have passed since the employee was successfully contacted by the DER, the MRO may verify a test is positive without having communicated directly with the employee about the test.

If, after making all reasonable efforts, neither the MRO or the DER is able to contact the employee within 10 days of the MRO receiving the result, the employer may place the employee on temporary medical unqualified status or medical leave and the MRO may verify a test is positive without having communicated directly with the employee about the test.

If, within 60 days, the employee presents to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from timely contacting the MRO, the MRO, on the basis of such information, may reopen the verification allowing the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes there is a legitimate explanation, the MRO declares the test to be negative.

The MRO may also verify a test is positive without having communicated directly with the employee if the employee declines the opportunity to discuss the test.

- g. Review the individual's medical history, or any other relevant biomedical factors to determine if a positive result is from legally-prescribed medicine.
- h. Verify that laboratory assessment is correct.
- i. Give the individual an opportunity to discuss test results.
- j. Report to tested employee that result is negative where a legitimate medical reason is found for a confirmed positive test result.
- k. Order a reanalysis of the remaining portion of the sample from a second certified laboratory, if so requested by the tested employee, within 72 hours of the employee being notified of a positive test.
- l. Consult with others if a question of accuracy arises.
- m. Consult with laboratory officials.
- n. Not receive urinalysis results that do not comply with the Mandatory Guidelines.
- o. Determine whether a result is scientifically insufficient.
- p. Determine whether a result is consistent with legal drug use.
- q. Forward results of verified positive tests to MMU's Human Resources Manager.
- r. Maintain the required records to administer this program.

- s. If an employee who has tested positive completes rehabilitation, the MRO can recommend return to work. A drug test will be given prior to the employee's return to work and the MRO will schedule return-to-duty testing. Testing will be on an unannounced basis -- daily, weekly, monthly, or longer -- at the discretion of the MRO.
- t. The MRO shall not disclose to any third party medical information provided by the employee as part of the testing verification process unless an applicable DOT regulation permits such disclosure; if, in the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule; or, in the MRO's reasonable medical judgment, in a situation in which there is no DOT agency rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his/her safety sensitive function could pose a significant risk. Before obtaining medical information from the employee as part of this verification process, the MRO shall inform the employee that the information may be disclosed under the above-mentioned circumstances.

B. Alcohol

- 1. Marshall Municipal Utilities hereby designates the Human Resources Manager to receive and handle alcohol testing results in a confidential manner. The Breath Alcohol Technician (BAT) will transmit all results only to the tested employee and the Human Resources Manager.
 - 2. The BAT will ensure immediate transmission to the Human Resources Manager of results that require the employee be prevented from performing a safety-sensitive function.
 - 3. If the initial transmission of results was not in writing, the BAT shall provide a follow-up copy of the results in writing.
- C. Any employee who is subject to a drug and/or alcohol test will, upon written request, have access to any records relating to his or her testing results.

IX. NOTIFICATION OF TEST RESULTS AND RECORD KEEPING

- A. MMU will notify a prospective employee of the results of a pre-employment alcohol and/or controlled substance test, provided that the prospective employee requests said test results within sixty (60) days of being notified of the disposition of the employment application.
- B. MMU will notify employees of the results of random, reasonable suspicion, and post-accident alcohol and/or controlled substance tests, provided that the

results were positive, and will also advise the employee of what controlled substance was detected, or the alcohol level that was discovered.

- C. All records relating to the administration and results of the alcohol and drug testing program will be maintained for a minimum period of five (5) years, except that individual negative, canceled or alcohol tests of less than 0.02 results need only be maintained for a minimum of twelve (12) months.
- D. All records related to the collection process and required training shall be retained for a minimum period of three (3) years.
- E. All records of the inspection, maintenance, and calibration of EBTs shall be retained for a minimum period of two (2) years and may be maintained by the company or companies providing alcohol testing services; except that calibration documentation pertaining to alcohol results 0.02 or greater shall be maintained for a minimum period of five (5) years as noted in paragraph C above.

X. FMCSA/CDL DRUG AND ALCOHOL CLEARINGHOUSE

- A. A database created by the FMCSA (the Clearinghouse) collects information on CDL drivers' drug and alcohol program violations, including whether a driver has successfully completed the mandatory return-to-duty process following a violation. Employers, MROs, and SAPs report applicable information to the Clearinghouse.
- B. The following records shall be reported to the Clearinghouse:
 - 1. A verified positive, adulterated, or substituted drug test result;
 - 2. An alcohol confirmation test with a concentration of 0.04 or higher;
 - 3. A refusal to submit to any required drug or alcohol test;
 - 4. An employer's report of actual knowledge, as defined at §382.107, including:
 - a. On duty alcohol use;
 - b. Pre-duty alcohol use;
 - c. Alcohol use following an accident; and
 - d. Controlled substance use.
 - 5. An SAP report of the successful completion of the return-to-duty process;
 - 6. A negative return-to-duty test; and
 - 7. An employer's report of completion of follow-up testing.
- C. MMU will not employ a driver to perform safety-sensitive functions without first conducting a pre-employment query of the Clearinghouse. Additionally, MMU

will conduct a query of the Clearinghouse at least once per year for all employees subject to this policy.

1. Before MMU may query the Clearinghouse for any particular driver, the driver must provide written or electronic consent.
 2. A driver refusing to provide the required consent is prohibited from performing safety-sensitive functions.
- D. MMU will not consider using a driver to perform any safety-sensitive function if the results of the Clearinghouse query demonstrate that the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test; or that an employer has reported actual knowledge that the driver used alcohol on duty, used alcohol before duty, used alcohol following an accident, or used a controlled substance, except where the query of the Clearinghouse demonstrates:
1. That the driver has successfully completed the SAP evaluation, referral, and education/treatment process; and
 2. The driver achieves a negative return-to-duty test result; and
 3. The driver completes the follow-up testing plan prescribed by the SAP.

XI. RELEASE OF TESTING INFORMATION BY PREVIOUS EMPLOYERS

- A. Until 2 years of data exists in the Clearinghouse, MMU must also request from any previous DOT-regulated employer of the driver information related to the driver's participation in an alcohol and drug testing program. MMU will obtain written permission from the driver to acquire this information.
- B. MMU may obtain and review the information listed below from **any** previous employer the driver performed **safety-sensitive functions** for in the previous two (2) years. MMU must request and review this information. The information may include:
1. Driver's breath alcohol test that indicated concentrations of 0.04 or greater.
 2. Positive controlled substance tests.
 3. Any refusals to submit to a required alcohol or controlled substance test.
- C. MMU will provide the previous employers of the past two (2) years with the driver's written consent to release the information. MMU may obtain the information via personal interview, telephone interview, letter, or other method as long as measures are taken to ensure confidentiality. MMU will maintain a written, confidential record with respect to each of the past employers contacted.

- D. MMU will not use a driver to perform safety-sensitive functions if MMU obtains information indicating the driver tested positive for controlled substances, tested at or above 0.04 breath alcohol concentration, or refused to test unless the employer has evidence the driver has been evaluated by a SAP, completed any required counseling, passed a return-to-duty test, and been subject to follow-up testing.
- E. MMU will not respond to inquiries about the record of previous MMU employees, as it relates to this policy, without signed authorization of the prior employee. Responses to potential employers will only cover the last two years of employment with MMU.

XII. EDUCATION, TRAINING AND EMPLOYEE ASSISTANCE PROGRAM (EAP)

- A. Every employee covered by this policy will receive alcohol misuse and drug abuse education. Additionally:
 - 1. Information concerning the effects of alcohol misuse and controlled substance abuse, signs and symptoms of problems, and available resources will be periodically distributed in work areas.
 - 2. A copy of this policy will be given to each employee and made available in work areas and internet sites where MMU policies are made accessible to employees.
 - 3. Contact information for the EAP will be given to each employee and displayed in work areas.
- B. Every supervisor covered by this policy who will determine whether an employee must be drug or alcohol tested based on reasonable cause or suspicion, will receive the following training.
 - 1. At least a one-hour minimum training period on the contemporaneous physical, behavioral, and performance indicators of controlled substance abuse.
 - 2. At least a one-hour minimum training period on alcohol misuse specifically covering physical, behavioral, speech and performance indicators.

**MARSHALL MUNICIPAL UTILITIES
ACKNOWLEDGEMENT OF RECEIPT**

I hereby certify that I have received a copy of the Marshall Municipal Utilities Alcohol Misuse and Controlled Substance Abuse and Testing Policy (DOT/FMCSA) and that I have or will read it. I certify that I will abide by the provisions of the Policy and further understand, as indicated by the policy, that violation of the policy, could affect my employment with MMU.

Printed Name

Signature

Date

**MARSHALL MUNICIPAL UTILITIES
ACKNOWLEDGEMENT OF RECEIPT**

I hereby certify that I have received a copy of the Marshall Municipal Utilities Alcohol Misuse and Controlled Substance Abuse and Testing Policy (DOT/FMCSA) and that I have or will read it. I certify that I will abide by the provisions of the Policy and further understand, as indicated by the policy, that violation of the policy, could affect my employment with MMU.

Printed Name

Signature

Date