

RESOLUTION NO. 403

**A RESOLUTION ADOPTING A CONTROLLED SUBSTANCES AND ALCOHOL USE
POLICY FOR THE TOWN OF STEVENSVILLE**

WHEREAS, the Town of Stevensville requires a Commercial Driver License for the operation of certain equipment; and,

WHEREAS, on January 9, 2006 the Town Council of the Town of Stevensville approved an agreement for Drug and Alcohol Testing and Services; and,

WHEREAS, on January 10, 2006 the Mayor of the Town of Stevensville signed an agreement for Drug and Alcohol Testing and Services; and,

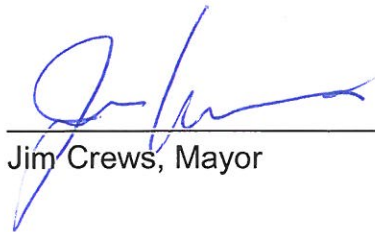
WHEREAS, Drug and Alcohol testing will be performed in accordance with the Department of Transportation Rules 49 CFR Part 40; and,

WHEREAS, the Agreement for Drug and Alcohol Testing and Services requires a Drug and Alcohol Policy; and,

NOW THEREFORE BE IT RESOLVED, by the Town Council of the Town of Stevensville, hereby adopts the Controlled Substances and Alcohol Policy for the Town of Stevensville as attached in Exhibit 1.

PASSED AND ADOPTED by the Town of Stevensville, Montana this 27th day of April, 2017.

APPROVED:



Jim Crews, Mayor

ATTEST:



Stacy Bartlett, Town Clerk

Town of Stevensville Controlled Substances and Alcohol Use Policy

Town of Stevensville Controlled Substances and Alcohol Use Policy

The Town of Stevensville is dedicated to providing safe, dependable operators for all Town of Stevensville equipment. Town of Stevensville employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to:

- (1) Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner.
- (2) Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances.
- (3) To encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

PURPOSE:

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the use of alcohol and prohibited controlled substances when employees operate Town of Stevensville motor vehicles which require a CDL in order to operate

- The Federal Highway Administration (FHWA) of the U.S. Department of Transportation (DOT) has enacted **49 CFR Part 382** that mandates urine controlled substance testing and breathalyzer alcohol testing for commercial vehicle operators when there is a positive test result.
- The DOT has also enacted **49 CFR Part 40**, as amended, that sets standards for the collection and testing of urine and breath specimens.

APPLICABILITY

This policy applies to all Town of Stevensville Employees who are required to have and maintain a Commercial Drivers' License as a requirement of their job descriptions.

SAFETY-SENSITIVE FUNCTION

A safety-sensitive function is defined in **49 CFR, Part 382.107** as any of those on-duty functions set forth in **49 CFR, Part 395.2 *On-Duty Time*, paragraphs (1) through (6)**.

PROHIBITED SUBSTANCES

“Prohibited Substances” addressed by this policy include the following:

Town of Stevensville Controlled Substances and Alcohol Use Policy

Illegal Drugs or Controlled Substances

Any illegal drug or any substance identified in **Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812)** also found in **Appendix D of the Federal Motor Carrier Safety Regulations**.

This includes, but is not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

Illegal use includes use of any illegal drug, misuse of legally-prescribed drugs, and use of illegally-obtained prescription drugs.

Legal Drugs

The appropriate use of legally-prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected, must be reported to supervisory personnel and medical advice must be sought, as appropriate, before performing a CDL function.

A legally-prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include:

- The patient's name
- The name of the substance
- The dosage
- Side effects vs. driving a commercial vehicle
- And the period of authorization.

The misuse or abuse of legal drugs while performing a CDL function is prohibited.

Alcohol

The use of beverages or substances containing alcohol including any medication such that alcohol is present in the body while performing a CDL function is prohibited.

The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

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PROHIBITED CONDUCT

Manufacturing, Trafficking, Possession and Use

Any employee engaging in the manufacturing, distribution, dispensing, possession, or use of prohibited substances on company premises, in Town of Stevensville vehicles, or while on Town of Stevensville business will be subject to immediate termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

Intoxication/Under-the-Influence

Any employee performing, about to perform, or just completed performing a CDL function, who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition.

Employees found to be under the influence of a prohibited substance, who fail to pass a drug or alcohol test, shall be immediately terminated.

A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above minimum thresholds defined in 49 CFR Part 40 or an employee's refusal to test. Including NOT reporting for a schedule appointment for testing.

Alcohol Use

No employee should report for duty, or remain on duty or perform a CDL function when their ability to perform assigned functions is adversely affected by alcohol or when their blood alcohol concentration is 0.02 or greater.

No employee shall use alcohol while performing a CDL function.

No employee shall have used alcohol within eight (8) hours of reporting for duty to perform a CDL function.

Violations of these provisions are prohibited and punishable by immediate termination.

COMPLIANCE WITH TESTING REQUIREMENTS

All employees who perform a CDL function will be subject to urine drug testing and breath alcohol testing.

Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results

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through tampering, contamination, adulteration, or substitution shall be removed from duty immediately, and subject to immediate termination. Refusal can include an inability to provide adequate specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

TESTING FOR PROHIBITED SUBSTANCES

The Town of Stevensville affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

Analytical urine drug testing and breath testing for alcohol may be conducted as required by Federal regulations. All employees who perform a CDL function shall be subject to testing prior to employment, randomly (unannounced basis), for reasonable suspicions, and following a commercial motor vehicle accident. Employees will be tested prior to, and after, returning to duty following a positive drug or alcohol test.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All collection and testing will be conducted consistent with the procedures put forth in **49 CFR Part 40**.

The urine sample will be tested for:

- Marijuana
- Cocaine
- Opiates
- Amphetamines
- And phencyclidine.

An initial drug screen will be conducted on each specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/ Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in **49 CFR Part 40**.

Test for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath-testing device (EBT) operated by a trained breath alcohol technician (BAT). Alcohol screening tests may be performed using a non-evidential alcohol-screening device, approved by NHTSA, operated by a screening test technician (STT). Any positive alcohol screen will be confirmed using EBT. Employees are subject to alcohol testing just prior to performing, while performing, or immediately following performance of a CDL function. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.

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An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from duty (performing a CDL function) for a minimum of twenty-four (24) hours. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy.

ANY EMPLOYEE WHO HAS A CONFIRMED POSITIVE DRUG OR ALCOHOL TEST (GREATER THAN .04) WILL BE REMOVED FROM DUTY (PERFORMING A CDL FUNCTION), INFORMED OF EDUCATIONAL AND REHABILITATION PROGRAMS AVAILABLE, AND MUST BE EVALUATED BY A SUBSTANCE ABUSE PROFESSIONAL (SAP). A positive drug and or alcohol test will also result in immediate termination.

Pre-Employment Testing

All applicants for positions, which will perform CDL functions, shall undergo urine drug testing prior to employment. Receipt by Town of Stevensville of a negative test result is required prior to employment, and a positive drug test will disqualify an applicant for employment.

Reasonable-Suspicion Testing

All employees who perform a CDL function may be subject to a fitness-for-duty evaluation, to include appropriate urine and or breath testing when there is reason to believe that drug or alcohol use is adversely affecting job performance. A reasonable-suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the long- or short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
4. Occurrence of a serious or potentially-serious accident that may have been caused by human error.
5. Fights (meaning physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Reasonable-suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in their work performance due to prohibited substance abuse or misuse.

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Post-Accident Testing

Employees will be required to undergo urine and breath testing if they are involved in a commercial motor vehicle accident that results in a fatality.

In addition, a post-accident test will be conducted if a commercial motor vehicle accident results in (1) injuries, to any individual involved, requiring immediate medical treatment away from the scene; or (2) one or more vehicles incurs disabling damage that requires towing from the scene; **AND** the employee receives a citation under State or local law for a moving traffic violation arising from the accident.

When required following a commercial motor vehicle accident, the employee will be tested as soon as possible, but not to exceed eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing. Any employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until they undergo a post-accident alcohol test. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test and subject to immediate termination.

Random Testing

Employees who perform CDL functions will be subjected to random, unannounced testing. Random Testing minimum rate is 25% year/annually by 4 quarters.

Return-to-Duty Testing

All employees who previously tested positive on a drug or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional before performing a CDL function.

Follow-Up Testing

Any employee who tested positive for drugs or alcohol will be subject to drug and or alcohol testing upon their return to work in accordance with the Substance Abuse Professional's recommendations and company policy.

30 Day Absence Return to Duty Testing

All employees who are CDL Drivers and subject to the Town of Stevensville Controlled Substances and Alcohol Use testing, who have been off duty for any reason for 30 days or more, are required to be tested if prior to returning to duty.

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Employee-Requested Testing

Any employee who questions the results of a required drug test under paragraphs 6.1 through 6.5 of this policy may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are paid by the employee unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in **49 CFR Part 40**. The employee's request for a re-test must be made to the MRO within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to verifiable facts that were beyond the control of the employee.

EMPLOYMENT ASSESSMENT

Any employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in **49 CFR Part 40** will be evaluated by a Substance Abuse Professional (SAP). A SAP is a licensed physical psychologist, social worker, employee assistance professional, or addiction counselor with knowledge or any clinical experience in the diagnosis and treatment of alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse. Assessment by a SAP does not shield any employee from disciplinary action or guarantee employment or reinstatement with the Town of Stevensville

If an employee is allowed to return to duty to perform CDL functions, they must properly follow the rehabilitation program prescribed by the SAP, must pass return-to-duty drug and alcohol test, and be subject to unannounced follow-up testing for a period of one to five years. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

TREATMENT REQUIREMENTS

All employees are encouraged to make use of the available resources for treatment for alcohol and substance abuse problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse. Any employee who refuses or fails to comply with the Substance Abuse Professional's and the Company's requirements for treatment either after care or return to duty, shall be subject to disciplinary action, up to and including termination. **Said employee will not be medically qualified to drive for anyone until the SAP requirements are met under DOT Regulations.**

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CONFIDENTIALITY

Under no circumstances, unless required or authorized by law, will alcohol or drug testing information or results for any employee or applicant, be released without written request from the applicable employee.

Drivers are entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.

PROPER APPLICATION OF THE POLICY

The Town of Stevensville is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors and managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor or manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

INFORMATION AND TRAINING

Employees will be provided information concerning the effects of alcohol and controlled substances on an employees health, work, and personal life; signs and symptoms of a problem; and rehabilitation.

COMPANY CONTACT

If you have any questions regarding this policy, contact the following designated company representative:

Name: Roxanne Wagner
Title: Human Resource Representative
Telephone Number: 406-777-5271 Ext 4

Town of Stevensville Controlled Substances and Alcohol Use Policy

I have read and received a copy of the Town of Stevensville Controlled Substances and Alcohol Use Policy and all pertinent attachments.

Employee Name: _____

Signature: _____

Date: _____

Mayor or Human Resource Representative: _____

Signature: _____

Date: _____

Town of Stevensville Controlled Substances and Alcohol Use Policy

Employee's Certified Receipt

Employee's Name: _____

Position: _____

This is to certify that I have been provided education materials that explain the requirements of s382.601 and TOWN OF STEVENSVILLE policies and procedures with respect to meeting the requirements. The materials include detailed discussion of the following checked items:

- ____ 1. The designated person to answer questions about the materials
- ____ 2. The categories of drivers subject to **Part 382**
- ____ 3. Sufficient information about the CDL functions and periods of the workday that compliance is required
- ____ 4. Specific information concerning prohibited driver conduct
- ____ 5. Circumstances under which a driver will be tested
- ____ 6. Test procedures, driver protection, and integrity of the testing processes, and safeguarding the validity of the test
- ____ 7. The requirement that tests are administered in accordance with **Part 382**
- ____ 8. An explanation of what will be considered a refusal to submit to a test, and the consequences
- ____ 9. The consequences for **Part 382 Subpart B** violations, including removal from CDL functions and **e382.605** procedures
- ____ 10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04
- ____ 11. Information on affects of alcohol and controlled substances use:
 - On an individual's health
 - On work
 - On personal life
 - Signs & symptoms of a problem
 - Available methods of intervening when a problem is suspected
- ____ 12. Optional information: _____

Employee's Signature Date

Mayor or Human Resource Representative Date

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Inquiry to Past Employers Alcohol & Controlled Substance Testing Verification

To:
 Company _____
 Address: _____
 City: _____
 State: _____ Zip: _____

From:
 TOWN OF STEVENSVILLE
 206 Buck Street
 Stevensville, MT 59870

WAIVER

I _____, Social Security No. _____,
 Hereby authorize the Town of Stevensville on Date _____, to release all information (written or oral or by phone) concerning the positive results of any controlled substance and alcohol testing, or refusal to test for same, within the past two years and any evaluations or determinations as a consequence of said positive results or refusal to test, to the above mentioned company (or their authorized agents) which may request such information in connection with my application for employment. I hereby release you from any and all liability of any type as a result of providing the requested information to the requesting organization.

Employee's Signature: _____

In accordance with **Section 382.413(b)** of the Federal Motor Carrier Safety Regulations, and with the applicants' consent, we are requesting information regarding alcohol and controlled substance positive test results conducted under DOT regulations while driving for your organization.

		Yes	No
1	Did a DOT alcohol test, conducted within the past two years confirm a BAC of 0.04 or greater		
2	Did a DOT Controlled Substance test performed within the past two years result in confirmed "Positive" result?		
3	Did this person refuse to be tested as required by the DOT regulations?		
4	If the answer to any of the above questions is "Yes" please provide:		
	A. The date of Positive test or refusal	Date	
	B. Type of test(s)(Check the appropriate test)	Alcohol	Controlled Substance
	C. Did this person return to duty with your organization following evaluation by a Substance Abuse Professional?		
	D. Was follow up testing required?		
	E. Was follow up testing performed?		

PRINTED name of individual providing information Title

 Signature of individual providing information Date

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Guidance for § 395.2: Definitions.

Question 1: A company told all of its drivers that it would no longer pay for driving from the last stop to home and that this time should not be shown on the time cards. Is it a violation of the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a Commercial Motor Vehicle (CMV) from the last stop to home and not show that time on the time cards?

Guidance: The Federal Motor Carrier Safety Regulations (FMCSRs) do not address questions of pay. All the time spent operating a Commercial Motor Vehicle (CMV) for, or at the direction of, a motor carrier must be recorded as driving time.

Question 2: What conditions must be met for a Commercial Motor Vehicle (CMV) driver to record meal and other routine stops made during a work shift as off-duty time?

Guidance:

Drivers may record meal and other routine stops, including a rest break of at least 30 minutes intended to satisfy 49 CFR 395.3(a)(3)(ii), as off-duty time provided:

1. The driver is relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying.
2. During the stop, and for the duration of the stop, the driver must be at liberty to pursue activities of his/her own choosing.

FR 78 41853, July 12, 2013]

Question 3: A driver has been given written permission by his/her employer to record meal and other routine stops made during a tour of duty as off-duty time. Is the driver required to record such time as off-duty, or is it the driver's decision whether such time is recorded as off-duty?

Guidance: It is the employer's choice whether the driver shall record stops made during a tour of duty as off-duty time. However, employers may permit drivers to make the decision as to how the time will be recorded.

Question 4: A driver has been given written permission by his/her employer to record meal and other routine stops made during a tour of duty as off-duty time. Is the driver allowed to record his stops during a tour of duty as off-duty time when the Commercial Motor Vehicle (CMV) is laden with HM and the CMV is parked in a truck stop parking lot?

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Guidance: Drivers may record meal and other routine stops made during a tour of duty as off-duty time, except when a Commercial Motor Vehicle (CMV) is laden with explosive HM classified as hazard divisions 1.1, 1.2, or 1.3 (formerly Class A or B explosives). In addition, when HM classified under hazard divisions 1.1, 1.2, or 1.3 are on a Commercial Motor Vehicle (CMV), the employer and the driver must comply with §397.5 of the FMCSRs.

Question 5: Do telephone calls to or from the motor carrier that momentarily interrupt a driver's rest period constitute a change of the driver's duty status?

Guidance: Telephone calls of this type do not prevent the driver from obtaining adequate rest. Therefore, the FHWA does not consider these brief telephone calls to be a break in the driver's off duty status.

Question 6: If a driver is required by a motor carrier to carry a pager/beeper to receive notification to contact the motor carrier for a duty assignment, how should this time be recorded?

Guidance: The time is to be recorded as off-duty.