

CITY OF MANITOWOC

DRUG AND ALCOHOL POLICY
For DOT-Regulated Employees

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I. PURPOSE

This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. These regulations include detailed procedures for urine drug testing and breath alcohol testing of employees involved in safety-sensitive functions. The purpose of this policy is to establish an alcohol and controlled substances testing program to help prevent accidents, injuries, and property damage resulting from the misuse of alcohol and the use of controlled substances by drivers of commercial motor vehicles. Consequently, City of Manitowoc has established the following alcohol misuse prevention program and anti-drug program as well as subsequent enforcement of violations for its employees conducting safety-sensitive functions.

Copies of Part 655, 382 and 40 are available on the internet at the US Department of Transportation (DOT) Office of Drug and Alcohol Compliance website <https://www.transportation.gov/odapc>.

All covered employees (full or part-time) are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Parts 655 and 382, as amended.

All provisions set forth in regular print are consistent with requirements set forth in 49 CFR Part 655, 382, or Part 40, as amended. Portions of this policy are not USDOT mandated but reflect City of Manitowoc policy. These additional provisions are underlined. All tests conducted under the sole authority of City of Manitowoc will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

Additionally, DOT covered employees must adhere to are also governed by the City of Manitowoc's Employee Alcohol and Drug Prevention Policy, PR which adheres to the Drug-Free Workplace Act of 1988 that states the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Designated Employee Representative (DER) no later than (5) five days after such conviction.

Program Contact

For additional information or questions, please refer to the Designated Employee Representative (DER); **Human Resources Director, City Hall, (920) 686-6994.**

II. POLICY

City of Manitowoc recognizes that the use and/or abuse of alcohol or controlled substances by USDOT covered safety sensitive employees present a serious threat to the safety and health of the safety sensitive employees and the general public. It is the policy of City of Manitowoc that its covered employees should be free of drugs and alcohol at all times while performing any work for the

organization, or while on any City of Manitowoc property. In order to further the goal of obtaining a drug-free and alcohol-free environment, and to be in full compliance with the DOT-regulated testing requirements of 49 CFR Parts 40, 382 and 655, City of Manitowoc has implemented a drug and alcohol testing program which is designed to help reduce and prevent vehicle accidents and injuries to the organization's employees and the public, to discourage substance use and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

III. DEFINITIONS

For the purposes of this policy, the following definitions will apply:

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low weight alcohols including methyl and isopropyl alcohol.

Alcohol Use means the consumption of any beverage, mixture or preparation, including medications, containing alcohol.

Breath Alcohol Technician (BAT) means an individual certified as trained to operate an Evidential Breath Testing Device (EBT) and proficient in breath testing procedures.

Canceled Test means, in controlled substance testing, that a test that has been declared invalid by the MRO. A canceled test is neither positive nor negative.

Collection Site means a place where individuals present themselves for the purpose of providing body fluids or tissue samples to be analyzed for controlled substances, or to provide a breath sample to be analyzed for alcohol concentration.

Commercial Motor Vehicle (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport property or passengers if the motor vehicle:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of the towed unit with a gross vehicle weight of 10,000 pounds; or
2. Has a gross vehicle weight of 26,001 more pounds, or
3. Is designed to transport 16 or more passengers inclusive of the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act and which require the vehicle to display a placard.

Controlled Substance under DOT rule means marijuana, cocaine, opioids, amphetamines, and phencyclidine (PCP) or other substances later defined by DOT as controlled substances.

Designated Employer Representative (DER) is an individual identified by the employer as able to receive communications and test results from service agents and is authorized to immediately remove employees from safety-sensitive functions and make decisions in the testing and evaluation processes. The DER must be an employee of the City of Manitowoc.

Evidential Breath Testing Device (EBT) is a device designed to measure alcohol concentration from breath samples which has been approved by the National Highway Traffic Safety Administration.

Laboratory means a laboratory for conducting drug testing that is approved by the Department of Health and Human Services.

Medical Review Officer (MRO) means a licensed doctor of medicine or osteopathy with the knowledge of drug abuse disorders that is retained by the organization to conduct and analyze drug tests in accordance with DOT rules.

Safety-Sensitive Function means the following on duty functions:

1. All time waiting to be dispatched;
2. All time inspecting, servicing or conditioning any commercial motor vehicle;
3. All driving time, i.e. all time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle;
5. All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

Performing (a safety-sensitive function) means an employee is considered to be performing a safety-sensitive function during any period in which they are actually performing, ready to perform, or immediately available to perform a safety-sensitive function.

Substance Abuse Professional (SAP) is a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

IV. POLICY COVERAGE

This policy applies to every person including an applicant or transferee, who performs or will perform "safety sensitive functions" as defined by 49 CFR Part 382 and 49 CFR Part 655.

~~Drivers are also governed by the City of Manitowoc's Non-DOT Drug and Alcohol Use Policy. In addition, transit (bus) drivers may be subject to drug and alcohol testing requirements as outlined in 49 CFR Part 655 and their department specific policy.~~

Condition of Employment

All applicants, transferees, and employees subject to this policy are required to submit to DOT drug and alcohol testing and therefore, it is a condition of employment.

This policy applies to every person whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety sensitive function" as defined herein, and any person applying for such positions.

Under FMCSA (Part 382), covered employees perform any of the following safety-sensitive functions:

- Driving a commercial motor vehicle which requires the driver to have a CDL
- Waiting to be dispatched to operate a commercial motor vehicle

- Inspecting, servicing, or conditioning any commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth)
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

FMCSA covered positions per 49 CFR Part 382 at the City of Manitowoc include:

- ✓ CDL Drivers (any position requiring a commercial driver's license)
- ✓ Mechanics

Under FTA (Part 655), covered employees perform the following safety-sensitive functions for the city's transit service:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul, and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

FTA covered positions per 49 CFR Part 655 at the City of Manitowoc include:

- ✓ Drivers
- ✓ Dispatchers
- ✓ Mechanics

V. PROHIBITED CONDUCT

Drugs

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- Marijuana
- Cocaine
- Phencyclidine (PCP)
- Opioids
- Amphetamines

1. Using controlled substances while on duty, unless 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 perform a safety sensitive function;
2. Reporting for duty or continuing to perform a safety sensitive function if the employee tests positive for controlled substances or has adulterated or substituted a specimen for controlled substances; or
3. Refusing to submit to testing required by this policy.

Alcohol

1. Using or possessing alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. **Note:** Federal regulations include medications containing alcohol in the substances banned from use or possession in the workplace. Therefore, drivers should not report for duty while using or possessing medication if such medication contains any measurable amount of alcohol;
2. For FMCSA covered employees, using alcohol within eight (8) hours following an accident, unless the employee has already undergone DOT-regulated post-accident drug and alcohol testing or is not required to undergo post-accident drug or alcohol testing;
3. Reporting for duty or continuing to perform safety sensitive functions while having an alcohol concentration of 0.04 or greater;
4. Consuming any amount of alcohol within four (4) hours prior to the performance of safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform their safety-sensitive function, they must take an alcohol test with a result of less than 0.02 prior to performance.
5. Refusing to submit to alcohol testing required by this policy.

Refusal to Test

Safety sensitive employees that refuse to take a drug and/or alcohol test incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions and referred to a Substance Abuse Professional (SAP).

Refusals to test are listed in 49 CFR Part 40 (as amended): 49 CFR 40.191 (as amended) for drug tests, and 49 CFR 40.261 (as amended) for breath tests.

A safety sensitive employee, has refused a test if they do the following:

- Failing to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so. This includes the failure of an employee to appear for a test when called.
- Failing to remain at the testing site until the testing process is complete (except in a pre-employment testing situation when an applicant leaves the testing site before the testing process commences);
- Failing to provide a specimen for a drug or alcohol test;
- In the case of a directly observed or monitored urine collection in a drug test, failing to permit monitoring or observation of the provision of a specimen;
- Failing to provide a sufficient specimen for a drug or alcohol test without a valid medical evaluation;
- Failing or declines to take an additional drug as directed by the collector or the city of Manitowoc;
- Failing to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process or as directed by the employer associated with a shy bladder or insufficient breath sample. 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;

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- Failing to sign the certification at Step 2 of the alcohol testing form;
- Failing to cooperate with any part of the drug and/or alcohol testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- For an observed collection, failing to follow the observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection;
- Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;
- Admitting to the employer, collector or MRO that they've adulterated or substituted the specimen;
- Providing a specimen that the MRO has determined to have been tampered with, verified adulterated or substituted;
- Failing to comply with any follow-up testing plan/criteria;
- Failing to remain readily available following an accident.

VI. CONSEQUENCES

Disciplinary Action

In addition to the actions below, any employee who violates any of the rules set forth in this policy is subject to discipline, up to and including termination.

Removal from Position

FMCSA Consequences

~~FMCSA regulations will immediately be removed from their covered position, including the operation of a commercial motor vehicle and the performance of any safety sensitive duties.~~

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided contact information to at least two qualified Substance Abuse Professionals (SAP). All documents related to the **SAP** referral will be kept in the employee's drug and alcohol file.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but for not less than 24 hours following administration of the test. When a reasonable suspicion drug and/or alcohol test cannot be administered and the employee's behavior or appearance suggests alcohol misuse or use of a controlled substance, they will immediately be removed from their ~~his/her~~ position for a mandatory period of twenty-four (24) hours.

The FMCSA covered employee ~~driver~~ shall not return to or assume any DOT covered position with this organization until and unless they complete the Substance Abuse Professional evaluation, referral, and education/ treatment process detailed in Subpart O of 49 CFR Part 40, as amended.

The City of Manitowoc will record information about a violation of the Federal Motor Carrier Safety Administration's (FMCSA) drug and alcohol testing program by a CDL driver into the FMCSA Clearinghouse.

FTA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and will be provided with contact information to at least two qualified Substance Abuse Professionals (SAP). All documents related to the SAP referral will be kept in the employee's drug and alcohol file.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

No FTA covered employee will be allowed to resume safety-sensitive job functions unless the return to duty requirements of 49 CFR Part 40, Subpart O are met.

Treatment

The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

A voluntary referral does not shield an employee from:

- ✓ Disciplinary action or guarantee employment with ~~City of Manitowoc Transit Provider~~City of Manitowoc and
- ✓ The requirement to comply with drug and alcohol testing.

Assessment by an SAP or participation in a rehabilitation program does not guarantee employment and/or reinstatement with ~~City of Manitowoc Transit Provider~~City of Manitowoc

VII. EFFECTS, SIGNS & SYMPTOMS

Intervention

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. If substance abuse is contributing to an employee's poor performance, ignoring or avoiding it will not help the situation. An employee's use or misuse of alcohol or controlled substances may be the root of the performance problem; however, substance abuse on the part of someone close to the employee also could be the source. Inevitably, the abuse of alcohol or other controlled substances leads to costly and potentially dangerous consequences unless action is taken to confront the issue.

Impact on Health, Work, & Personal Life

The impact of an individual's substance use and/or abuse extends beyond them. Impaired employees endanger themselves, fellow workers, and the general traveling public. Employees with alcohol are less productive and more likely to injure themselves or other persons in an accident. Alcohol abusing employees increase the costs related to lost productivity, absenteeism, loss of trained personnel, theft, and treatment and deterrence programs.

The struggle for answers about alcohol and drug problems can be difficult. Without expert assessment and diagnosis, it can entail an exhausting search without easy resolution. But confidential diagnosis and assistance can be helpful at any point along the continuum, and it is better to seek and get such help sooner rather than later.

VIII. REQUIRED TESTS

Refusal to submit to a required test will result in removal of a safety sensitive employee from their assignment(s) which, in turn, may result in discipline up to and including termination.

~~Non safety sensitive employees are subject to testing procedures under the city of Manitowoc's authority.~~

City of Manitowoc will test applicants, transferees, and safety sensitive employees under the following situations:

1. Pre-Employment Testing

Any individual not currently employed by City of Manitowoc who is applying for a safety-sensitive position shall be required to undergo pre-employment-controlled substance testing after a conditional offer of employment has been extended.

Prior to the first time an existing employee performs safety-sensitive functions for the organization (i.e. new position, promotion, job transfer, etc.); the employee shall be required to undergo testing for controlled substances.

~~After a conditional offer of employment has been made, the applicant is required to take a pre-employment drug test. Applicants for permanent positions must report for testing within 48 hours of being notified. The applicant shall not be allowed to assume the position until such time the City of Manitowoc has received a verified negative drug test result. An offer of employment will be withdrawn if the employee fails to report for testing within 48 hours unless the failure is due to circumstances beyond their control (such as a vehicular accident) or the applicant's test result is anything but negative-negative.~~

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If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

A positive result will result in a disqualification from further consideration for the vacancy or eligibility list. Any applicant or existing employee who refuses to undergo such alcohol or drug testing will be disqualified from further consideration for employment in that safety-sensitive position.

FMCSA

Per §382.701 and effective January 6, 2020, City of Manitowoc will obtain driver consent and subsequently conduct a pre-employment full query of the Drug and Alcohol Clearinghouse to obtain information about whether 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 in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance, in violation of §382.213.

City of Manitowoc will not allow a driver to perform any safety-sensitive function if the results of a 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 in violation of §382.211; or that an employer has reported actual knowledge, as defined at §382.107, that the driver used alcohol on duty in violation of §382.205, used alcohol before duty in violation of §382.207, used alcohol following an accident in violation of §382.209, or used a controlled substance in violation of §382.213, except where a query of the Clearinghouse demonstrates that:

1. The driver has successfully completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, achieves a negative return-to-duty test result; and completes the follow-up testing plan prescribed by the SAP.
2. If the driver has not completed all follow-up tests as prescribed by the SAP in accordance with §40.307 and specified in the SAP report required by §40.311, the driver has completed the SAP evaluation, referral, and education/treatment process set forth in part 40, subpart O, and achieves a negative return-to-duty test result, and the City of Manitowoc assumes the responsibility for managing the follow-up testing process associated with the testing violation.

FMCSA Pre-Employment Drug Testing Exception

A safety sensitive applicant/employee is not required to undergo a pre-employment test if:

- a) The covered employee has participated in a DOT testing program within the previous 30 days; and
- b) While participating in that program, either:
 - (i) Was drug tested within the past six months (from the date of application with ~~the City of Manitowoc Transit Provider~~City of Manitowoc or
 - (ii) Participated in the random drug testing program for the previous 12 months (from the date of application with ~~the City of Manitowoc Transit Provider~~City of Manitowoc); and
- c) ~~Transit Provider~~City of Manitowoc can ensure that no prior employer of the employee of whom ~~the City of Manitowoc Transit Provider~~City of Manitowoc has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

FTA

There are (3) three situations for conducting DOT-FTA **Pre-Employment Testing**:

- Applicant/New Employee
- Current non-safety-sensitive employee transfers to a safety sensitive position
- Current employee has long-term absence from the performance of safety-sensitive functions. This means the employee did not do safety sensitive duties for 90 or more consecutive days **AND** was removed from the random testing pool during that time.

An applicant or covered employee who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

2. Post-Accident Testing

The City of Manitowoc supervisor will document the decision for post-accident testing. The City of Manitowoc supervisor will coordinate with the Designated Employer Representative to send the employee for drug and/or alcohol testing, as applicable.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances listed below. For more information on post-accident testing see the FMCSA website: <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/what-tests-are-required-and-when-does-testing-occur>

Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene;
or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene;
or
- (2) One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

FTA Procedures

Covered employees shall be subject to FTA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City of Manitowoc using the best information available at the time of the decision, will also be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the City of Manitowoc using the best information available at the time of the decision, will be tested.

3. Random Testing

All covered employees are subject to unannounced drug and alcohol testing.

Testing percentages are established annually by the USDOT. Testing rates will meet or exceed the minimum annual percentage rate set each year by FMCSA and FTA, respectively. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>. If a given employee is subject to random testing under the rules of more than one DOT agency, the employee will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the employee's function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made. The random selection process ensures that each employee has an equal chance of being selected and tested. Some employees may be tested more than once each year; some may not be tested at all depending on the random selection. ~~-Non-safety-sensitive employees covered under the city of Manitowoc's authority will be selected from a pool of non-USDOT covered employees.~~

The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year. Random testing will be conducted at all days and times of the day when safety sensitive functions are performed.

Covered employees are required to proceed immediately to the **Collection Site** upon notification to report for a random drug and/or alcohol test. Failure to show for a test within a reasonable time from the time of notification or interfering with the testing process is considered a refusal to test.

Drug

A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Alcohol

An employee shall only be tested for alcohol during, just before or just after the performance of safety sensitive functions.

Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift.

4. Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when the City of Manitowoc has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

The **City of Manitowoc** supervisor or trained company official will document the reasonable suspicion determination.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

Under ~~Transit Provider~~City of Manitowoc's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

A safety-sensitive employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish their shift and shall immediately be placed on administrative leave pending disciplinary action.

The supervisor who made the observations shall provide a report that contains the observations leading to an alcohol or controlled substances reasonable suspicion test within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

1. Upon the employee's removal from the job site, the supervisor should contact the Human Resources Department. If contact cannot be made at that time, the supervisor should proceed to the next step of this procedure and make contact with the Human Resources Department as soon thereafter as possible.
2. The supervisor is to then take the employee to the collection site for drug and/or alcohol testing, and must remain at the site until the test is completed.
3. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes the reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the test. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.
4. Once the drug and/or alcohol test has been completed the supervisor is to make arrangements for the employee to be taken home. The employee will not be permitted to drive their own car home at that time. The employee may have a family member or a friend pick them up or the supervisor may take the employee home.
5. The employee is to be advised not to report to work. The City of Manitowoc will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.
6. The results of the drug and/or alcohol test will be sent directly to the Human Resources Department. When the results are obtained, the employee's supervisor and department head will meet with Human Resources to determine the appropriate course of action to be taken.
7. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or termination with anyone who does not need to know.
8. Once the test has been completed and the employee has been taken home, the supervisor must submit a written report to Human Resources outlining in detail what happened and what behavior was observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report is to be done within 24 hours of testing.

5. Return-to-Duty

All return-to-duty testing will be conducted in accordance with 49 CFR Part 40, Subpart O, as amended. Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by an **SAP**, complete an **SAP**-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result if required by SAP.

Any required return-to-duty drug testing will be directly observed.

The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

6. Follow-up Testing

All follow-up testing will be conducted in accordance with 49 CFR Part 40, Subpart O, as amended.

Employees returning to safety-sensitive duty following a return-to-duty test will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the Substance Abuse Professional (SAP). The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty.

All follow-up drug tests will be directly observed.

The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider.

IX. DRUG AND ALCOHOL CLEARINGHOUSE QUERIES

In addition to the required pre-employment Clearinghouse full query, and effective January 6, 2020, City of Manitowoc will also conduct a query of the Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing as defined in 49 CFR Part 382 to determine whether information exists in the Clearinghouse about those employees.

To conduct the annual query referenced above, City of Manitowoc will obtain the individual driver's consent and may conduct a "limited" query to satisfy the annual query requirement. The limited query will tell the City of Manitowoc whether there is information about the individual driver in the Clearinghouse but will not release that information to the City of Manitowoc. The individual driver may give consent to conduct limited queries that is effective for more than one year.

If the limited query shows that information exists in the Clearinghouse about the individual driver, the City of Manitowoc must conduct a full query, within 24 hours of conducting the limited query. If the City of Manitowoc fails to conduct a full query within 24 hours, the City of Manitowoc must not allow the driver to continue to perform any safety-sensitive function until the City of Manitowoc conducts the full query and the results confirm that the driver's Clearinghouse record contains no prohibitions as defined §382.701 (d).

X. REPORTING TO THE CLEARINGHOUSE

City of Manitowoc must report the following information about a driver to the Clearinghouse by the close of the third business day following the date on which they obtained that information:

- (i) An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- (ii) A negative return-to-duty test result;
- (iii) A refusal to take an alcohol test pursuant to 49 CFR 40.261;
- (iv) A refusal to test determination made in accordance with 49 CFR 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under (a)(11), the employer may report only those admissions made to the specimen collector; and
- (v) A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with §§40.307, 40.309, and 40.311 of the drug and alcohol regulations.

The information required to be reported under section must include, as applicable:

- (i) Reason for the test;
- (ii) Driver's name, date of birth, and CDL number and State of issuance;
- (iii) Employer name, address, and USDOT number;
- (iv) Date of the test;
- (v) Date the result was reported; and
- (vi) Test result. The test result must be one of the following:
 - (A) Negative (only required for return-to-duty tests administered in accordance with §382.309);
 - (B) Positive; or
 - (C) Refusal to take a test.

For each report of a violation of 49 CFR 40.261(a)(1) [refusal to test for alcohol] or 40.191(a)(1) [refusal to test for controlled substances], the employer must report the following information:

- (i) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;
- (ii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable);
- (iii) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, showing that the C/TPA reporting the violation was designated as a service agent for an employer who employs himself/herself as a driver pursuant to §382.705 (b)(6) of this section when the reported refusal occurred (if applicable); and
- (iv) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported under §382.705 (b)(3).

Employers must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at §382.107, of:

- (i) On-duty alcohol use pursuant to §382.205;
- (ii) Pre-duty alcohol use pursuant to §382.207;
- (iii) Alcohol use following an accident pursuant to §382.209; and
- (iv) Controlled substance use pursuant to §382.213.

For each violation in which the employer obtains actual knowledge, as defined at §382.107, the employer must report the following information:

- (i) Driver's name, date of birth, CDL number and State of issuance;
- (ii) Employer name, address, and USDOT number, if applicable;
- (iii) Date the employer obtained actual knowledge of the violation;
- (iv) Witnesses to the violation, if any, including contact information;
- (v) Description of the violation;
- (vi) Evidence supporting each fact alleged in the description of the violation required under paragraph §382.705 (b)(4) of this section, which may include, but is not limited to, affidavits,

photographs, video or audio recordings, employee statements (other than admissions pursuant to §382.121), correspondence, or other documentation; and

(vii) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph §382.705 (b)(4) of this section.

Reporting Entities and Circumstances

Reporting entity	When information will be reported to clearinghouse
Prospective/Current Employer of CDL Driver	—An alcohol confirmation test with a concentration of 0.04 or higher. —Refusal to test (alcohol) as specified in 49 CFR 40.261.
	—Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.
	—Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.
	—Negative return-to-duty test results (drug and alcohol testing, as applicable)
	—Completion of follow-up testing.
Service Agent acting on behalf of Current Employer of CDL Driver	—An alcohol confirmation test with a concentration of 0.04 or higher. —Refusal to test (alcohol) as specified in 49 CFR 40.261.
	—Refusal to test (drug) not requiring a determination by the MRO as specified in 49 CFR 40.191.
	—Actual knowledge, as defined in 49 CFR 382.107, that a driver has used alcohol on duty, used alcohol within four hours of coming on duty, used alcohol prior to post-accident testing, or has used a controlled substance.
	—Negative return-to-duty test results (drug and alcohol testing, as applicable)
	—Completion of follow-up testing.
MRO	—Verified positive, adulterated, or substituted drug test result.
	—Refusal to test (drug) requiring a determination by the MRO as specified in 49 CFR 40.191.
SAP	—Identification of driver and date the initial assessment was initiated.
	—Successful completion of treatment and/or education and the determination of eligibility for return-to-duty testing.

XI. DRIVER CONSENT AND ACCESS TO THE CLEARINGHOUSE

City of Manitowoc cannot query the Clearinghouse to determine whether a record exists for any particular driver without first obtaining driver consent. City of Manitowoc must retain the consent for 3 years from the date of the last query. Written consent for limited queries can be obtained by using the “General Consent for Limited Queries of the FMCSA-Drug and Alcohol Clearinghouse Form” which is attached to this policy.

Before the City of Manitowoc may access information contained in the driver's Clearinghouse record, the driver must submit electronic consent through the Clearinghouse granting the City of Manitowoc access to the following specific records:

- (1) A verified positive, adulterated, or substituted controlled substances test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to a test in violation of §382.211;
- (4) An employer's report of actual knowledge, as defined at §382.107, of:
 - (i) On duty alcohol use pursuant to §382.205;
 - (ii) Pre-duty alcohol use pursuant to §382.207;
 - (iii) Alcohol use following an accident pursuant to §382.209; and
 - (iv) Controlled substance use pursuant to §382.213;
- (5) A 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.

City of Manitowoc cannot permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by the paragraphs of this section.

A driver granting consent must provide consent electronically to the Agency through the Clearinghouse prior to release of information to an employer in accordance with §382.701(a)(2) or (b)(3).

A driver may review information in the Clearinghouse about himself or herself, except as otherwise restricted by law or regulation. A driver must register with the Clearinghouse before accessing his or her information.

XII. CLEARINGHOUSE RECORDKEEPING

City of Manitowoc must retain for 3 years a record of each query and all information received in response to each query made. As of January 6, 2023, an employer who maintains a valid registration with the Clearinghouse fulfills this requirement.

IX. SELF-ADMISSION

City of Manitowoc strives to maintain a safe and drug-free work environment. Alcohol and drug use on the job poses a serious threat to the safety of our employees and the general public. However, the organization also understands the addictive nature of alcohol and certain drugs. The organization greatly values and cares about all employees and will make every effort to assist any employee who comes forward and admits the need for help or treatment. To this end, City of Manitowoc has created a qualified self admission program, as detailed in its non-DOT policy which complies with the DOT regulations by incorporating the following required elements:

- City of Manitowoc will not take any adverse action (loss of seniority, position, title, etc.) against any employee who makes a voluntary admission of having an alcohol or drug problem.
- Self-admitting employees will be given the opportunity to seek treatment (at the employee's expense). The city of Manitowoc organization shall ensure that the employee is provided sufficient opportunity to seek evaluation, education or treatment to establish control over their his or her drug or alcohol problem.

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Commented [BS2]: Does the city want to keep this sentence? What does 'sufficient opportunity' mean? Could an employee push back on this and say 'you didn't give me enough time...'. The first sentence as is might meet the spirit of the city's policy to be supportive w/out getting into a back and forth with the employee. Decide whether to keep or delete the sentence in yellow highlight.

- Any employee who has a drug and/or alcohol use problem and has not been notified of the requirement to submit to a reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer themselves to the Human Resource Manager/DER or designee, who will refer the individual to a substance abuse counselor for evaluation and treatment.

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- The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

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- **FTA Procedure**

- Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from their safety-sensitive function and will **not** be allowed to perform such function until successful completion of a prescribed rehabilitation program.

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- **FMCSA Procedure**

- Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from their safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty drug test with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

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- **Non-DOT Covered Positions**

- In the event of voluntary self-admission, the organization is required to remove the employee from performing their duties and the employee will be prohibited from performing their duties, or continuing to perform, any safety sensitive functions and will not be allowed to perform such functions until successful completion of a prescribed rehabilitation program.

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- In order to be permitted to resume performing safety sensitive functions for City of Manitowoc:

- The organization must be satisfied with and approve the employee's treatment option/program.
 - The employee must successfully complete the treatment program, and provide documentation/certification of completion (as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor).

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- Further, City of Manitowoc must ensure that:

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- Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test (at the employee's expense) with a result indicating an alcohol concentration of less than 0.02; and/or
 - A return to duty controlled substance (at the employee's expense) test with a verified negative test result for controlled substances use; and
 - The organization may incorporate employee monitoring and include non-DOT follow up testing (at the employee's own expense).

~~o Employees who admit to alcohol misuse or controlled substances use, are subject to the above procedures, but will not be subject to the referral, evaluation and treatment requirements set forth in 49 CFR Part 40, Subpart O, as amended provided that:~~

- ~~*The driver does not self identify in order to avoid testing under the requirements of this policy;~~
- ~~*The driver does not make the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and~~
- ~~*The driver does not perform a safety sensitive function until the City of Manitowoc is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self identification program guidelines.~~

X. TESTING PROCEDURES

All USDOT drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Before the testing process can begin at the Collection Site, the employee must present a valid photo ID (such as a driver's license, state issued identification card, employer ID, etc.).

The **Collection Site** should protect individual dignity, privacy, and confidentiality of the employee throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

Alcohol Testing

All alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

If the employee is also going to take a DOT alcohol test, Collectors must ensure, to the greatest extent practicable, that the alcohol test is completed before the drug testing collection process begins.

Initial Testing

The DOT alcohol testing form (ATF) is used to document the alcohol testing process. The Breath Alcohol Technician (BAT) will conduct an initial breath test and if the result is 0.020 or greater, a confirmation test is required. The collector completes Step 1 and the employee is required to sign Step 2 in order for the test to proceed. Failure of an employee to sign Step 2 of the ATF at the Collection Site will be considered a refusal to submit to testing. The employee provides an adequate amount of breath so the device can analyze it and provide the result. The BAT and employee observe the test results, which are then recorded on the ATF. If the test result is less than .020, the result is considered negative. The collector completes Step 3 and the collection process is complete. If the initial test result is 0.020 or greater, the employee is required to complete a confirmation test.

Confirmation Testing

A 15-minute wait period will be observed prior to the confirmation test being administered. The wait period allows an opportunity for any accumulation of residual mouth alcohol to dissipate and will prevent an artificially high reading. The confirmation test result is administered following an air blank on the testing device. Once the results are received, they must electronically print on ATF.

An alcohol concentration of less than 0.02 will be considered a negative test. For alcohol concentrations over 0.02, see FMCSA and FTA disciplinary actions outlined in the Section VI. Consequences of this policy.

The confirmation test results are those the ~~city of Manitowoc organization~~ will rely on when determining further action, if any.

DOT Drug Testing

All drug testing will be conducted in accordance with 49 CFR Part 40, as amended.

The collector utilizes a custody and control form to document the collection process. The collector will provide a brief summary regarding the steps to complete the collection process. The applicant/employee is provided privacy to provide their specimen, immediately returns the specimen to the collector, and observes the temperature along with the collector. The collector splits the specimen into bottles A & B, seals each container and dates the label. The employee initials each label. The paperwork and specimens are sent to a laboratory certified by the U.S. Department of Health and Human Services.

Laboratory

The laboratory is certified by the U.S. Department of Health and Human Services and utilizes approved techniques and equipment to analyze the specimen. The laboratory conducts validity testing to determine if the specimen is consistent with normal human urine and to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. Drug testing establishes the presence of a drug or drugs at or above the minimum cut-off concentration levels.

If the presence of drugs is detected at or above the minimum cut-off concentration levels, a confirmation test is required. For confirmation testing, a second analytical procedure is conducted by gas chromatography/ mass spectrometry (GC/MS) technology. The procedure is used to further support a validity test result and/or identify and quantify the presence of a specific drug or drug metabolite at or above the minimum thresholds.

Dilute Urine Specimen

If there is a negative dilute test result, the City of Manitowoc will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. There is no split specimen testing for an invalid result.

The City of Manitowoc guarantees that the split specimen test will be conducted in a timely fashion. The City of Manitowoc will seek reimbursement for the split specimen test from the employee if the result of the split specimen analysis confirms the original result.

The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

Direct Observation

As the employer, the **City of Manitowoc** must direct an immediate collection under direct observation with no advance notice to the employee, in the following circumstances consistent with 49 CFR Part 40 (as amended)¹:

1. The laboratory reports to the Medical Review Officer (MRO) that a specimen is invalid, and the MRO reports there was not an adequate medical explanation for the result.
2. The MRO reports the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed.
3. Anytime the collector observes materials brought to the Collection Site or the covered employee's conduct clearly indicates an attempt to tamper with a specimen.
4. The laboratory reports to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reports the urine specimen as negative-dilute and requires a second collection under direct observation.
 - See 49 CFR 40.197(b)(1)
5. The original specimen appeared to have been tampered with.
 - See 49 CFR 40.65(c)(1)
6. The temperature on the original specimen was out of range.
 - See 49 CFR 40.65(b)(5)
7. The test is a return-to-duty test or follow-up test.

Medical Review Officer (MRO)

All test results are reported to the Medical Review Officer.

The MRO serves as an independent, impartial gatekeeper regarding the accuracy and integrity of the drug testing program. As a safeguard to quality and accuracy, the MRO reviews each test for accuracy.

When the laboratory reports non-negative results (i.e., confirmed positive, adulterated, substituted, or invalid drug test result), the MRO conducts a verification process with the employee. During this process, the MRO will obtain information to determine if an alternative medical explanation for the test result exists.

¹ 49 CFR Part 40.67, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended, outlines when and how a directly observed collection is conducted.

If the MRO determines that a legitimate medical use exists, the drug test result is reported as negative to the employer. However, even if there is a legitimate medical explanation and verifies a test negative, the MRO has a responsibility to raise fitness-for-duty considerations with the employer. When no legitimate medical reason is established, the MRO will report the applicable result to the employer.

XI. CONTROLLED SUBSTANCES/ OTC/ PRESCRIPTION MEDICATIONS

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited.

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Before performing any work-related duties, employees must notify their supervisor and/or the DER if they are taking any legally prescribed medication, therapeutic drug (to include the use of CBD Oils), or any non-prescription (over-the-counter) drug especially if it contains any measurable amount of alcohol or if it carries a warning label that indicates the employee's mental functioning, motor skills, or judgment may be adversely affected by the use of this medication.

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It is the responsibility of the employee to inform their physician/pharmacist of the type of safety-sensitive function that they perform in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of their duties or operation of City of Manitowoc, vehicle and other equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol or any substance which would cause a positive test while on duty or who tests positive for alcohol or controlled substance(s) will be removed from his or her position, and subject to the provisions of this policy, even though the reason for the positive test is the fact that the employee's prescription medication contains alcohol or a controlled substance.

A legally prescribed drug is one in which the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment.

The employee is required to provide a written release from their doctor or pharmacist indicating that the employee can perform their safety sensitive functions. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City of Manitowoc business or on City of Manitowoc property is prohibited by this policy.

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Special Note for Rx Opioids:

~~Historically, the DOT's regulation required the MRO to report your medication use/medical information to a third party (e.g. your employer, health care provider responsible for your medical qualifications, etc.), if the MRO determines in his/her reasonable medical judgement that you may be medically unqualified according to DOT Agency regulations, or if your continued performance is likely to pose a significant safety risk. The MRO may report this information even if the MRO verifies your drug test result as 'negative'.~~

~~As of January 1, 2018, prior to the MRO reporting your information to a third party you will have up to five days to ensure your prescribing physician contacts the MRO. Under DOT rule, the driver is~~

~~responsible for facilitating the contact between the MRO and the prescribing physician. The prescribing physician should be willing to state to the MRO that you can safely perform your safety-sensitive functions while taking the medication(s), or consider changing your medication to one that does not make you "medically unqualified" and/or does not pose a significant safety risk.~~

~~If the MRO and prescribing physician cannot agree on a resolution regarding the prescription and conclude the driver must remain "medically unqualified" the City of Manitowoc will either place the driver on administrative leave, offer modified duty not to include performance of any safety-sensitive functions, and/or evaluate if the driver qualifies under FMLA as appropriate. During this time, as the driver is unable to perform safety-sensitive functions and likely unable to perform all the essential functions of their job, an ADA interactive process may begin, as required, to help determine reasonable accommodations (if any) for the driver.~~

XII. CONFIDENTIALITY OF RECORDS

~~Procedures used for drug and alcohol testing follow the requirements of 49 CFR Part 40, as amended to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver. The City of Manitowoc will strictly adhere to all standards of confidentiality to ensure drivers testing records and results will be released only to those authorized by the FMCSA rules to receive such information.~~

~~As required, the following personal information collected and maintained under DOT requirements 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 test required by subpart C of this part;~~
- ~~4. An employer's report of actual knowledge, as defined at §382.107;~~
- ~~5. On-duty alcohol use pursuant to §382.205;~~
- ~~6. Pre-duty alcohol use pursuant to §382.207;~~
- ~~7. Alcohol use following an accident pursuant to §382.209; and~~
- ~~8. Controlled substance use pursuant to §382.213;~~
- ~~9. A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;~~
- ~~10. A negative return-to-duty test; and~~
- ~~11. An employer's report of completion of follow-up testing.~~

XIII. EMPLOYEE EDUCATION

The City of Manitowoc will ensure covered employees and supervisors receive drug and alcohol training as listed below. Training records of all DOT covered employees will be documented.

Covered Employees

- ✓ Receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Part 655, as amended and Part 40, as amended.
- ✓ Undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
 - Online training is available at:

<https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/DrugAwarenessVideo/Default.aspx>

Supervisors

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive:

- ✓ 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and
- ✓ 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.
 - Online FTA training for supervisors is available at:

<https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/ReasonableSuspicionVideo/>
<https://nationalrtap.org/Training/Training-Overview>

XIV. CERTIFICATE OF RECEIPT

City of Manitowoc shall ensure that each safety sensitive applicant, transferee or employee is required to sign a statement certifying that they have received a copy of this policy and materials. The organization shall maintain the original of the signed certificate and may provide a copy of the certificate to the safety sensitive employee.

XV. RECORDS MANAGEMENT

Location of Records

Drug and alcohol testing records shall be maintained by the City of Manitowoc's Designated Employer Representative in a secure location with controlled access so that disclosure of information to unauthorized persons does not occur.

FMCSA Record Retention Schedule

According to 49 CFR Parts 382 and 40, each as amended, the following minimum record retention schedule shall be maintained by ~~Transit Provider~~City of Manitowoc. For records specific to FMCSA, see [49 CFR 382.401](#).

Record	Retention Period (Years)
Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained while the individual performs the functions which require the training and for two years after ceasing to perform those functions.	Indefinite Period
- Verified positive drug tests results - Alcohol test results 0.02 BAC or greater - Refusals to tests - Adulterations - Substitutions - Evaluations and referrals to SAP	5

Record	Retention Period (Years)
- SAP reports - Follow-up tests and schedules - Documentation of employee disputes - Calibration documentation - Records related to the administration of the alcohol and controlled substances testing program, including records of all driver violations. - A copy of each annual calendar year summary required by § 382.403. - Annual MIS reports	
- Records related to the collection process - Random selection lists; post-accident testing; decision forms; reasonable suspicion determination forms; MRO documents	2
- Verified negative drug test results - Employer copy of the CCF - Test results from MRO - Cancelled drug and alcohol test results - Negative alcohol tests records (below 0.02 BAC)	1

FMCSA Records

The following specific types of records shall be maintained. "Documents generated" are documents that may have to be prepared under a requirement of this part. If the record is required to be prepared, it must be maintained.

(1) Records related to the collection process:

- (i) Collection logbooks, if used;
- (ii) Documents relating to the random selection process;
- (iii) Calibration documentation for evidential breath testing devices;
- (iv) Documentation of breath alcohol technician training;
- (v) Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;
- (vi) Documents generated in connection with decisions on post-accident tests;
- (vii) Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine or oral fluid specimen for testing; and
- (viii) A copy of each annual calendar year summary as required by [§ 382.403](#).

(2) Records related to a driver's test results:

- (i) The employer's copy of the alcohol test form, including the results of the test;
- (ii) The employer's copy of the controlled substances test chain of custody and control form;
- (iii) Documents sent by the MRO to the employer, including those required by part 40, subpart G, of this title;
- (iv) Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part;
- (v) Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this part; and

- (vi) Documents generated in connection with verifications of prior employers' alcohol or controlled substances test results that the employer:
- (A) Must obtain in connection with the exception contained in [§ 382.301](#), and
 - (B) Must obtain as required by [§ 382.413](#).
- (3) Records related to other violations of this part.
- (4) Records related to evaluations:
- (i) Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance; and
 - (ii) Records concerning a driver's compliance with recommendations of the substance abuse professional.
- (5) Records related to education and training:
- (i) Materials on alcohol misuse and controlled substance use awareness, including a copy of the employer's policy on alcohol misuse and controlled substance use;
 - (ii) Documentation of compliance with the requirements of [§ 382.601](#), including the driver's signed receipt of education materials;
 - (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
 - (iv) Documentation of training for breath alcohol technicians as required by [§ 40.213\(g\) of this title](#); and
 - (v) Certification that any training conducted under this part complies with the requirements for such training.
- (6) Administrative records related to alcohol and controlled substances testing:
- (i) Agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, consortia, and third-party service providers;
 - (ii) Names and positions of officials and their role in the employer's alcohol and controlled substances testing program(s);
 - (iii) Semi-annual laboratory statistical summaries of urinalysis required by [§ 40.111\(a\) of this title](#); and
 - (iv) The employer's alcohol and controlled substances testing policy and procedures.

FTA Record Retention Schedule

According to 49 CFR Parts 655 and 40, each as amended, the following minimum record retention schedule shall be maintained by the City of Manitowoc. Sometimes, additional records will be kept to thoroughly document the decision-making process.

Record	Retention Period (Years)
• Verified positive drug tests results • Alcohol test results 0.02 BAC or greater • Refusals to tests • Adulterations • Substitutions • Referrals to SAP	5

Record	Retention Period (Years)
• SAP reports • Follow-up tests and schedules • Documentation of employee disputes • Employee evaluation and referrals • Annual MIS reports	
• Previous DOT employer record request documentation, such as: ○ Records of previous positive drug and alcohol tests (0.02 BAC or above), test refusals, other violations ○ Employee return-to-duty documentation ○ Records showing good-faith-effort to obtain records from previous employers, including consent forms	3
• Education and training records • Records related to the collection process • Random selection lists; post-accident testing; decision forms; reasonable suspicion determination forms; MRO documents • Records of the inspection, maintenance, and calibration of EBTs	2
• Verified negative drug test results • Employer copy of the CCF • Test results from MRO • Cancelled drug and alcohol test results • Negative alcohol tests records (below 0.02 BAC)	1

FTA Records

The following FTA specific records will be maintained:

1. Records related to general policies and procedures:
 - a. Current policy statement listing effective date and the approval by the governing authority of the City of Manitowoc.
 - b. Employee and new hire policy receipt acknowledgements.
 - c. Previous policy statements listing effective dates and the corresponding approvals by the highest ranking official.
2. Records related to employee training:
 - a. Training materials on drug use awareness and alcohol misuse, including a copy of the City of Manitowoc's policy on prohibited drug use and alcohol misuse.
 - b. Names of covered employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training.
 - c. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.

- d. Certification that any training conducted complies with the requirements for such training.
- 3. Records related to the collection process:
 - a. Collection logbooks, if used.
 - b. Documents relating to the random selection process.
 - c. Documents generated in connection with decisions:
 - i. To administer reasonable suspicion drug or alcohol tests
 - ii. On post-accident drug and alcohol testing
 - d. MRO documents verifying existence of medical explanation of the inability of a covered employee to provide an adequate sample.
- 4. Records related to test results:
 - a. City of Manitowoc's copy of the CCF.
 - b. Documents related to the refusal of any covered employee to submit to a required test.
 - c. Documents presented by a covered employee to dispute the result of a test.
- 5. Records related to referral and return to duty and follow-up testing:
 - a. Records concerning a covered employee's entry into, and completion of the treatment program recommended by the SAP.
- 6. Records related to the employers Management Information Systems (MIS) annual testing data.
- 7. Records related to credentials documenting that each service agent (i.e., MRO, SAP, Certified Labs, etc.) meets the minimum basic knowledge, qualifications training, certification/examination, error-correction training, and refresher training.
 - a. If the service agents maintain these records, the employer should perform and keep documents of periodic spot checks to ensure that the minimum requirements are met.

WHAT ARE THE EFFECTS OF ALCOHOL AND DRUGS ON THE BODY

ALCOHOL

A central nervous system depressant, alcohol is the most widely abused drug. About half of all auto accident fatalities in this country are related to alcohol abuse.

How Much is Too Much?

Consider that a 12-ounce beer, a 5-ounce glass of wine, and a 1.5 ounce shot of liquor contain about the same amount of alcohol. For the average to larger person (170#) and petite to small person (125#) the following approximate BACs can be expected:

	<u>170# person</u>	<u>125# person</u>
1 drink in 1 hour	.015%	.025%
2 drinks in 1 hour	.04%	.075%
7 drinks in 1 hour	.10%	.175%

The Removal of Alcohol from the Body

- ▲ Blood alcohol concentrations in the average person usually decrease at the rate of .012 to .02% per hour
- ▲ For a given person, the rate of elimination is nearly constant regardless of the % of alcohol in the body
- ▲ Coffee, cold showers, and exercise do not quicken sobriety.

To demonstrate this, here is a chart that shows what happens when a person goes to bed intoxicated with a blood alcohol level of .250

<u>Time</u>	<u>Activity</u>	<u>Blood Alcohol</u>
1:00 AM	Goes to Bed	.250
5:00 AM	Get Up for Work	.190
7:00 AM	Reports for Work	.160
8:00 AM	Still Legally Intoxicated	.145
9:00 AM	Driving Erratically	.140
11:00 AM	Still Legally Intoxicated – car	.100
3:00 PM	Quitting Time – Still Intoxicated CDL	.040

Alcohol first acts on those parts of the brain that affect self-control and other learned behaviors. Low self-control often leads to the aggressive behavior associated with some people who drink. In large doses, alcohol can dull sensation and impair muscular coordination, memory and judgment. Taken in larger quantities over a long period of time, alcohol can damage the liver and heart and cause permanent brain damage. On the average, heavy drinkers shorten their life span by about 10 years.

Other Effects:

- * greatly impaired driving ability
- * reduced coordination and reflex action
- * impaired vision and judgment
- * impaired vision and judgment
- * inability to divide attention
- * overindulgence (hangover) can cause
- * headaches/unclear thinking
- * nausea/unsettled digestion
- * dehydration/aching muscles

MARIJUANA

Marijuana is also called grass, pot, weed, Mary Jane, herb, joint, reefer, among other street names. Marijuana may impair or reduce short-term memory and comprehension, alter sense of time, and reduce ability to perform tasks requiring concentrations and coordination, such as driving.

NOTE: While alcohol dissipates in a matter of hours, marijuana stays in the body for four weeks or more!

Other Effects:

- ▲ driving impaired for at least 4-6 hours after smoking 1 joint
- ▲ restlessness, inability to concentrate
- ▲ increased pulse rate and blood pressure
- ▲ altered sense of identity
- ▲ impaired memory, dulling of attention
- ▲ hallucinations, fantasies and paranoia
- ▲ reduction or temporary loss of fertility

COCAINE

Cocaine is a stimulant drug, which increases heart rate and blood pressure. As a powder, it is inhaled, ingested, or injected. It is often called coke, snow, blow, nose candy, and white. Cocaine is also used as a free-base cocaine known as crack or rock, which is smoked.

The most dangerous effects of crack can be vomiting, rapid heart rate, tremors, and convulsive movements. All of this muscle activity increases the demand for oxygen, which can result in a cocaine-induced heart attack. Since the heat regulating center in the brain is also disrupted, dangerously high body temperatures can occur. With high doses, brain functioning, breathing and heart beat are depressed – leading to death.

Other Effects:

- ▲ a rush of pleasurable sensation
- ▲ heightened, but momentary feeling of confidence, strength and endurance
- ▲ paranoia, mood swings, anxiety
- ▲ irritation of the nostrils and nasal membrane
- ▲ reduced sense of humor
- ▲ compulsive behavior such as teeth grinding or repeated hand washing

AMPHETAMINES:

Amphetamines can cause increased heart and respiratory rates, and promote a feeling of alertness and an increase in speech and general physical activity. It is often called speed, uppers, pep pills, black beauties, bennies, and hearts.

NOTE: People with a history of sustained low-dose use often become dependent and believe they need the drug to get by. These users frequently keep taking amphetamines to avoid the “down” mood or crash that they experience when the ‘high’ wears off.

Even small infrequent doses can produce toxic effects in some people. Restlessness, anxiety, moody swings, panic, heart beat disturbances, paranoid thoughts, hallucinations, convulsions, and coma have been reported. Long-term users often have acne resembling measles, trouble with their teeth, gums

and nails, and dry, dull hair. Heavy, frequent doses can produce brain damage resulting in speech disturbances.

Other Effects:

- | | |
|---------------------------------------|--------------------------------------|
| * loss of appetite | * short term insomnia |
| * exaggerated reflexes | * difficulty focusing eyes |
| * distorted thinking | * increased blood pressure |
| * irritability, anxiety, apprehension | * perspiration, headaches, dizziness |
| * increased heart rate | |

OPIOIDS

Opioids, including heroin, morphine, and codeine are narcotics used to relieve pain and induce sleep. Common street names include junk, smack, brown sugar, Harry, or big H.

NOTE: Heroin accounts for 90% of the narcotic abuse in this country

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

Other Effects:

- | | |
|---------------------------------|-------------------------------|
| * short-lived state of euphoria | * decreased physical activity |
| * impaired driving ability | * reduced vision |
| * drowsiness followed by sleep | * change in sleep habits |
| * constipation | * possible death |

PHENCYCLIDINE (PCP):

Also called angel dust, rocket fuel, super kools, and killer weed, it was developed as a surgical anesthetic in the late 50's. Later, due to unusual side effects in humans, it was restricted to use as a veterinary anesthetic and tranquilizer. Today, it has no lawful use and is no longer legally manufactured.

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

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

Other Effects:

- | | |
|-------------------------------|------------------------------|
| * impaired driving ability | * drowsiness |
| * perspiration | * repetitive speech patterns |
| * Incomplete verbal responses | * blank star |
| * thick, slurred speech | * involuntary eye movement |

Additional information about City of Manitowoc' Drug & Alcohol Program is available from:

Designated Employer Representative (DER):

Name: **Human Resources Director** Phone: **(920) 686-6993**

The Designated Employer Representative maintains the following drug and alcohol contact information and credentials, and is available upon request:

- ✓ Collection Site(s)
- ✓ Third Party Administrator (TPA), if applicable
- ✓ Medical Review Officers (MRO)
- ✓ DHHS Certified Drug Testing Laboratories
- ✓ Substance Abuse Professionals (SAP)

CITY OF MANITOWOC

LIST OF APPROVED SUBSTANCE ABUSE PROFESSIONAL (SAP) TREATMENT PROGRAM OPTIONS

1. Peg Kubiak, 320 Main Ave, Suite 202A, De Pere, WI 54115, peg.infocus@gmail.com, 920-217-5871
2. Adam Sturdevant, 425 S. Adams Street, Suite 102, Green Bay, WI 54301, (o) 920-888-5961, © 920-888-6868

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**General Consent: *Limited Queries* of the
Federal Motor Carrier Safety Administration (FMCSA)
Drug and Alcohol Clearinghouse**

I hereby provide consent to **The City of Manitowoc** and their Third-Party Administrator (TPA), to conduct a *limited query* of the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse² as long as I am employed by **The City of Manitowoc**, to determine whether drug or alcohol violation information about me exists in the Clearinghouse.

I understand if the *limited query* conducted by **The City of Manitowoc** or their Third-Party Administrator (TPA), indicates drug and alcohol violation information about me exists in the Clearinghouse, FMCSA will not disclose that information without first obtaining specific consent from me.

I further understand if I refuse to provide consent for **The City of Manitowoc** or their Third-Party Administrator (TPA), to conduct a *limited query* of the Clearinghouse, **The City of Manitowoc** must prohibit me from performing safety-sensitive functions, including driving a commercial motor vehicle, as required by FMCSA's drug and alcohol program regulations.

Employee

Printed Name of Employee: _____

Signature of Employee: _____

Date: _____

² Information on the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse is available at <https://www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse>

CITY OF MANITOWOC
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EMPLOYEE ACKNOWLEDGEMENT FORM
DOT-Regulated Employees

Detach and return this page to the City of Manitowoc's Designated Employee Representative, safety Manager or other identified City of Manitowoc manager.

I acknowledge that I have received City of Manitowoc's Drug and Alcohol Misuse Prevention Policy and that this policy has been reviewed with me in a training session conducted by the City of Manitowoc. I understand that the terms described in this policy may be altered, amended, or changed by City of Manitowoc, at any time or in order to comply with changes or revisions to federal law, with or without prior notice.

Printed name

Signature

Date