

Town of Cornwall **2629 Route 30, Cornwall, VT 05753** **Hire Date** _____

Address			
Street	City	State & Zip	How Long? _____

Telephone Number _____ Email Address _____

Street	City	State & Zip	# Years _____
Street	City	State & Zip	# Years _____
Street	City	State & Zip	# Years _____

Section 383.21 FMCSR states "No person who operates a commercial motor vehicle shall at any time have more than one driver's license". I certify that I do not have more than one motor vehicle license, the information for which is listed below.

State	License No.	Type	Expiration Date
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[illegible]

Dates	Nature of Accident	Number of Fatalities	Number Injuries	Chemical Spill?

Date Convicted	Violation	State Location of Violation	Penalty

**Commercial Motor Vehicle Operator
Application For Employment**

- A. Have you ever been denied a license, permit or privilege to operate a motor vehicle? Yes ____ No ____
If yes, explain _____
- B. Has any license, permit or privilege ever been suspended or revoked? Yes ____ No ____
If yes, explain _____

Use the rest of this page if more room is needed for explanations.

**Commercial Motor Vehicle Operator
Application For Employment
Employment Record**

Last Employer _____

Address _____ Phone _____

Position Held _____ From _____ To _____ Salary _____

Reason For Leaving _____

Were you subject to the Federal Motor Carrier Safety Regulations (FMCSRs) while employed by this employer? Yes _____ No _____

Was the previous job position designated as a safety sensitive function in any DOT regulated mode, subject to alcohol and controlled substances testing requirements as required by 49 CFR Part 40? Y__N__

Second Last Employer _____

Address _____ Phone _____

Position Held _____ From _____ To _____ Salary _____

Reason For Leaving _____

Were you subject to the Federal Motor Carrier Safety Regulations (FMCSRs) while employed by this employer? Yes _____ No _____

Was the previous job position designated as a safety sensitive function in any DOT regulated mode, subject to alcohol and controlled substances testing requirements as required by 49 CFR Part 40? Y__N__

Third Last Employer _____

Address _____ Phone _____

Position Held _____ From _____ To _____ Salary _____

Were you subject to the Federal Motor Carrier Safety Regulations (FMCSRs) while employed by this employer? Yes _____ No _____

Was the previous job position designated as a safety sensitive function in any DOT regulated mode, subject to alcohol and controlled substances testing requirements as required by 49 CFR Part 40? Y__N__

**Commercial Motor Vehicle Operator
Application For Employment**

TO BE READ AND SIGNED BY APPLICANT

I authorize you to make investigations and inquiries into my personal, employment, financial or medical history and other related matters as may be necessary in arriving at an employment decision. (Generally, inquiries regarding medical history will be made only if and after a conditional offer of employment has been extended.) I hereby release employers, schools, health care provider and other persons from all liability in responding to inquiries and releasing information in connection with my application.

In the event of employment, I understand that false or misleading information given in my application or interview(s) may result in discharge. I understand, also, that I am required to abide by all rules and regulations of the Town of Cornwall.

I understand that information I provide regarding current and/or previous employers may be used, and those employer(s) will be contacted, for the purpose of investigating my safety performance history as required by 49 CFR 391.23(d) and (e). I understand that I have the right to:

- 1) Review information provided by current/previous employers:
- 2) Have errors in the information corrected by previous employers and for those previous employers to re-send the corrected information to the prospective employer; and
- 3) Have a rebuttal statement attached to the alleged erroneous information, if the previous employers(s) and I cannot agree on the accuracy of the information.

Date

Applicant's Signature

Applicant's Printed Name

This certifies that I completed this application, and that all entries on it and information in it are true and complete to the best of my knowledge.

Date

Applicant's Signature

Employment History and CDL Drug & Alcohol Testing Request Form

Your Entity Name	TOWN OF CORNWALL, VERMONT		
Mailing Address	2629 ROUTE 30 CORNWALL, VT 05753		
Telephone & Fax #s	802-462-2775	802-462-2606	
Contact Person	SUSAN JOHNSON - DER		
Email Address	CORNWALLVT@SHOREHAM.NET		
Driver Applicant Name		Social Security #	

I hereby authorize and request [Enter Name of Prior Employer, Address & Telephone #]

to release any and all information pertaining to my employment records to the above requesting prospective employer as required by 49 CFR Section 391.23 and Section 40.25(b). You are released from any and all liability which may result from releasing such information. The Federal Motor Carrier Safety Regulations require that this information be released as part of the Driver Qualification Process. Per 49 CFR Section 40.25(h), you are required to immediately release this information to the above requesting employer.

Guidance to Prior Employers

Per 391.23(f) the driver's written consent is provided to the previous employer to ensure the proper release of information required by FMCSA regulations. (g) Employers must:

(g)(1) Respond to each request for the DOT defined information in paragraphs (d) and (e) of this section within 30 days after the request is received (Drug and Alcohol Testing Information must be immediately released). If there is no safety performance history information to report for that driver, previous motor carrier employers are nonetheless required to send a response confirming the non-existence of any such data, including the driver identification information and dates of employment.

(g)(2) Take all precautions reasonably necessary to ensure the accuracy of the records.

(g)(3) Provide specific contact information in case a driver chooses to contact the previous employer regarding correction or rebuttal of the data.

(g)(4) Keep a record of each request and the response for one year, including the date, the party to whom it was released, and a summary identifying what was provided.

Driver Printed Name: _____

Driver Signature: _____ Date: _____

Witnessed by: _____

Employment History and CDL Drug & Alcohol Testing Request Form

Employment History

If the individual listed was not a CDL driver or in a safety sensitive position that required him/her to be in a DOT Drug & Alcohol Testing program, check here: ☐

The above applicant states that he/she was employed by you between the following dates:

From: _____ To: _____

Please indicate the following:

1. Commercial Motor Vehicle Type

- | | |
|--|---|
| <input type="checkbox"/> Straight Truck | <input type="checkbox"/> Tractor/Semi trailer |
| <input type="checkbox"/> Van | <input type="checkbox"/> Bus |
| <input type="checkbox"/> Flatbed | <input type="checkbox"/> Cargo/Tanker |
| <input type="checkbox"/> Dump Truck/Logging Truck | |
| <input type="checkbox"/> Other (please indicate vehicle type(s)) _____ | |

2. Was the applicant safe and efficient? ☐ Yes ☐ No

Remarks:

3. Did the applicant have any motor vehicle accidents while in your employ? ☐ Yes ☐ No
If yes, please describe details, outcome, and severity of accident.

4. Reason for leaving your employ: ☐ Discharged ☐ Laid off ☐ Resigned
☐ Other (please describe):

Please rate the driver for the following characteristics, using a check mark:

Characteristics	Excellent	Average	Poor
Quality of work			
Cooperation with others			
Safety Habits			
Personal Habits			
Driving Skills			
Attitude			

Employment History and CDL Drug & Alcohol Testing Request Form

Controlled Substance and Alcohol Testing Information—sections 382.413 and 40.259(b)

1. Was the above named individual in a random DOT compliant drug & alcohol testing program during his/her employment with your company? ☐ Yes ☐ No
2. Has the above named individual had an alcohol test with a breath alcohol concentration of 0.04 or greater while in your employ? ☐ Yes ☐ No
3. Has the above named individual had a controlled substance test with a positive result while in your employ? ☐ Yes ☐ No
4. Has the above individual refused a controlled substance test or alcohol test while in your employ? ☐ Yes ☐ No
5. Other violations of DOT Agency Drug and Alcohol testing regulations? ☐ Yes ☐ No
Addition Info Attached ☐ Yes ☐ No
6. Do you have documentation of the employee's successful completion of the 49 CFR Subpart O return to duty requirements? ☐ Yes ☐ No ☐ Not Applicable

With Reference to **question number 5**, please identify the Substance Abuse Professional you referred the driver to if he/she tested positive or refused testing.

Name:	
Mailing Address	
Phone #	

Signed by: _____ Date: _____

Printed Name: _____

Prior Employer Official Title: _____

NOTE: You are required to release this information immediately per 49 CFR 382.405(f) & 40.25(h). Fines and penalties for not releasing this information is found in 49 CFR 382.507 under 49 USC 521(b).

We reserve the right to notify the US DOT Federal Motor Carrier Safety Administration in the event the above information is not received.

Reply Mailed On: _____

Verified by Phone: ☐ Yes ☐ No

Person Contacted: _____

Signature: _____ Date: _____



Vermont DMV Record Request

DEPARTMENT OF MOTOR VEHICLES
Agency of Transportation
dmv.vermont.gov

120 State Street
Montpelier, Vermont 05603-0001
802.828.2000

Requests for Vermont Department of Motor Vehicles records must be submitted on this form. This form may be photocopied for your convenience. The form must be completed in ink. Please print all information, except signatures, which must be written.

*** ALL APPLICABLE SECTIONS OF THIS FORM (FRONT AND BACK) MUST BE COMPLETED TO OBTAIN THE REQUESTED INFORMATION. ***

Signature Required on Back of Form	
Requester Name: SUSAN JOHNSON	
DBA/Company: TOWN OF CORNWALL	
Mailing Address:	2629 ROUTE 30 CORNWALL, VT 05753
Street/Box Number:	
City, State, Zip:	
Mail to (if different than above address):	Telephone Number: 802-462-2775
<input type="checkbox"/> Listings of 1 through 4 current or expired registrations - \$6.00	
<input type="checkbox"/> Listing of 1 through 4 current or expired operator's license - \$6.00	
<input type="checkbox"/> Certified copy of current or original registration application - \$6.00	
<input type="checkbox"/> Certified copy of expired operator's license application - \$6.00	
<input type="checkbox"/> Certified copy individual accident report - \$10.00	
<input type="checkbox"/> Certified copy police accident report - \$15.00	
<input type="checkbox"/> Insurance information of accident - \$6.00	
<input type="checkbox"/> Statistics and research - \$35.00 per hour	
<input type="checkbox"/> Periodic inspection sticker record - \$6.00	
<input type="checkbox"/> Lists of registered dealers, transporters, periodic inspection stations, rental vehicle companies, fuel dealers and distributors (including gallons sold or delivered) - \$6.00 per page	
<input type="checkbox"/> Other - Write explanation on reverse side of this form. All other items of information requested will be furnished at a minimum charge of \$6.00.	
<input type="checkbox"/> Certified copy of suspension notice - \$6.00	
<input type="checkbox"/> Certified copy of reinstatement notice - \$6.00	
<input type="checkbox"/> Certified copy of title - \$6.00	
<input type="checkbox"/> Certified copy of vehicle title search, title info, lien info. - \$20.00	
<input type="checkbox"/> Certified copy of vessel, snowmobile or ATV title search - \$13.00	
<input checked="" type="checkbox"/> Certified copy of 3 year operating record (Vermont only) - \$13.00	
<input type="checkbox"/> Certified copy of complete operating record (Vermont only) - \$16.00	
<input type="checkbox"/> Certified copy of proof of mailing - \$6.00	
<input type="checkbox"/> Certified copy of mail receipt - \$6.00	

• DO NOT MAIL CASH! • Make check or money order payable (in U.S. funds only) to: VT DEPARTMENT OF MOTOR VEHICLES.

Rater #	FOR DEPARTMENT USE ONLY
	Audit Line: →

I am requesting information concerning:

VIN Number		Vehicle Make	Vehicle Year	VT License Plate #	Expiration Date
Name		VT Driver License Number		Date of Birth	
Street/Box Number		Social Security Number			
City		State		Zip Code	
Date(s) you want covered, if applicable (does not apply to driving records)					
Month	Day	Year	Through	Month	Day

AUTHORIZATION OF RELEASE OF INFORMATION

I hereby, with my signature, authorize (print name of person or business you are authorizing):	
<input checked="" type="checkbox"/> To perform a one-time search of the VT Department of Motor Vehicles files (pertaining to me) and any resulting reports.	
<input type="checkbox"/> To perform a one-time authorization to transact business (pertaining to me) with the VT Department of Motor Vehicles.	
Signature of individual authorizing release:	Date authorization given:

Information requested (be specific, if necessary use separate sheet of paper):

The information requested may be disclosed if its use is authorized under the Driver Privacy Protection Act. The information being requested is:

↓ You must initial inside the appropriate box(es)/category(ies) below:	
	1. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person acting on behalf of a government agency in carrying out its functions. Appropriate documents identifying requester are required .*
	2. For use in connection with matters of motor vehicles or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers. <i>An explanation that details the reason(s) why you feel you qualify under this category must be attached to this document.</i>
	3. For use in the formal course of business by a legitimate business or its agents, employees, or contractors: a. To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and b. If the information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual. Appropriate documents identifying requester are required .*
	4. For use in connection with any proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court. <i>An explanation that details the reason(s) why you feel you qualify under this category must be attached to this document.</i>
	5. For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, re-disclosed, or used to contact individuals. <i>An explanation that details the reason(s) why you feel you qualify under this category must be attached to this document.</i>
	6. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting. Appropriate documents identifying requester are required .*
	7. For use in providing notice to the owner or lien-holder of a towed or impounded vehicle.
	8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this section. Appropriate documents identifying requester are required .*
SAJ SAJ	9. For use by an employer, of its agent or insurer, to obtain or verify information relating to a holder of a commercial driver's license which is required under the Commercial Motor Vehicle Safety Act of 1996 [Title XII of Public Law 99-570].
	10. For use in connection with the operation of private toll transportation facilities.
	11. For any use specifically authorized by law that is related to the operation of a motor vehicle or public safety. <i>An explanation that details the reason(s) why you feel you qualify under this category must be attached to this document.</i>
	12. Unrestricted or specified use with written consent of the person who is the subject of the information. ("Release portion" on other side of this form must be completed in full.)

In requesting and using this information I acknowledge that this disclosure and any re-disclosure is subject to the Driver Privacy Protection Act (18 USC §2723). This is signed and the request made subject to the penalties of 18 USC §2723 and 23 VSA §202.

Signature of Requester

Date:

Driver License/Corporate Number of Requester

EIN 03-6000438

Upon receipt of this request by the Vermont Department of Motor Vehicles, it will be reviewed by the appropriate department personnel to determine whether this request conforms to (DPPA) protocol and requirements. Failure to meet these qualifications will result in a denial of your request.

* Appropriate documents identifying requester are **required**. You must include copies of your identification and documents verifying you are authorized to obtain this information. Failure to meet these qualifications will result in a denial of your request. If you are unsure what documents are required, call 802.828.2000

FOR DEPARTMENT USE ONLY - DO NOT WRITE ANYTHING BEYOND THIS POINT

This request is hereby denied as the record(s) is/are exempt from inspection and copying for the following reason:

- ☐ They are records which, by law, are designated confidential or by a similar term.
- ☐ They are records which, by law, may only be disclosed to specifically designated persons.

You have the right to appeal this denial to the Commissioner of Motor Vehicles (appeal must be in writing).

Vermont Department of Motor Vehicles:

Applicant Acknowledgement of Drug & Alcohol Testing Requirement

Job Title Applied for: HIGHWAY MAINTENANCE OPERATOR

Municipality: TOWN OF CORNWALL, VERMONT

I understand that as a condition of employment, I must successfully complete a drug test as required by 49 CFR Part 655, Part 382 and Part 40, when requested by the employer. I also understand that the employer may administer an optional pre-employment alcohol test if they so desire.

I understand that a negative drug test is required before I will be permitted to perform safety-sensitive duties. If a pre-employment alcohol test is administered, I understand that it must also be negative. I also understand that if I fail the required drug test or optional alcohol test that I will be eliminated from consideration for the above position and any contingent offer of employment for that position will be withdrawn.

Printed Applicant Name: _____

Applicant Signature: _____

Printed Name (Witness): _____

Witness Signature: _____

Date: _____

SEXUAL HARASSMENT

It is against the policies of the Town of Cornwall, and illegal under state and federal law, for any employee, male or female, to sexually harass another employee. The Town of Cornwall is committed to providing a workplace free from this unlawful conduct. It is a violation of this policy for an employee to engage in sexual harassment.

What is "sexual harassment?"

Sexual harassment is a form of sex discrimination; it means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to that conduct is made either explicitly or implicitly a term or condition of employment;
2. submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or
3. the conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment include, but are not limited to, the following, when such acts or behavior come within one of the above definitions:

- either explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of an employee's body;
- touching or grabbing any part of an employee's body after that person has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask an employee to socialize on or off-duty when that person has indicated he or she is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g. ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);
- derogatory or provoking remarks about or relating to an employee's gender or sexual orientation;
- harassing acts or behavior directed against a person on the basis of an employee's gender or sexual orientation;
- off-duty conduct which falls within the above definition and affects the work environment.

What this employer will do if it learns of possible sexual harassment:

In the event this employer receives a complaint of sexual harassment, or otherwise has reason to believe that sexual harassment is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and addressed. The employer is committed, and required by law, to take action if it learns of potential sexual harassment, even if the aggrieved employee does not wish to formally file a complaint. Every supervisor is responsible for promptly responding to, or reporting, any complaint or suspected acts of sexual harassment. Supervisors should report to the Select Board Chair (who has been designated to receive such complaints or reports). Failure by a supervisor to appropriately report or address such sexual harassment complaints or suspected acts shall be considered to be in violation of this policy.

Care will be taken to protect the identity of the person with the complaint and of the accused party or parties, except as may be reasonably necessary to successfully complete the investigation. It shall be a violation of this policy for any employee who learns of the investigation or complaint to take any retaliatory action which affects the working environment of any person involved in this investigation.

If the allegation of sexual harassment is found to be credible, this employer will take appropriate corrective action. The employer will inform the complaining person and the accused person of the results of the investigation and what actions will be taken to ensure that the harassment will cease and that no retaliation will occur. Any employee, supervisor, or agent who has been found by the employer to have harassed another employee will be subject to sanctions appropriate to the circumstances, ranging from a verbal warning up to and including dismissal.

If the allegation is not found to be credible, the person with the complaint and the accused person shall be so informed, with appropriate instruction provided to each, including the right of the complainant to contact any of the state or federal agencies identified in this policy notice.

What you should do if you believe you have been harassed:

Any employee who believes that she or he has been the target of sexual harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop. If the employee does not wish to communicate directly with the alleged harasser or harassers, or if direct communication has been ineffective, then the person with the complaint is encouraged to report the situation as soon as possible to the Select Board Chair (who has been designated to receive such complaints or reports). It is helpful to an investigation if the employee keeps a diary of events and the names of people who witnessed or were told of the harassment, if possible.

If the complainant is dissatisfied with this employer's action, or is otherwise interested in doing so, she or he may file a complaint by writing or calling any of the following state or federal agencies:

1. Vermont Attorney General's Office, Civil Rights Unit, 109 State Street, Montpelier, VT 05602, (802) 828-3171 (voice/TDD). Complaints should be filed within 300 days of the adverse action.

2. Equal Employment Opportunity Commission, 1 Congress Street, Boston, MA 02114, (617) 565-3200 (voice), (617)565-3204 (TDD). Complaints must be filed within 300 days of the adverse action.
3. Vermont Human Rights Commission (*only if you are employed by a Vermont state agency*), 133 State Street, Montpelier, VT 05633-6301, (802) 828-2480 (voice/TDD). Complaints must be filed within 360 days of the adverse action.

Each of these agencies can conduct impartial investigations, facilitate conciliation, or, if there are reasonable grounds to believe sexual harassment occurred, take the case to court. Although employees are encouraged to file their complaint of sexual harassment through this employer's complaint procedure, an employee is not required to do so before filing a charge with these agencies.

In addition, a complainant also has the right to hire a private attorney and to pursue a private legal action in state court within three or six years, depending on the type of claims raised.

Where can I get copies of this policy?

A copy of this policy will be provided to every employee, and extra copies will be available in the following office: Town Clerk's Office, 2629 Route 30.

Reasonable accommodations will be provided for persons with disabilities who need assistance in filing or pursuing a complaint of harassment, upon advance request.

Signed:

Benjamin Marks

John Roberts

Brian Kemp

Tanya Byker

Don Burns

Cornwall Select Board

Employee: _____

Witness: _____

Date Adopted: August 21, 2007

Reviewed and Approved: September 2009

Reviewed and Approved: September 2010

Reviewed and Approved: September 2011

Reviewed: June 2022

Town of Cornwall, Vermont

Drug & Alcohol Policy for CMV Operators

Introduction

This policy applies to employees and prospective employees of the Town of Cornwall who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV.

All other municipal employees are subject to the provisions of the municipality's personnel policy regarding alcohol and drug use and testing, if applicable.

The policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

This personnel policy does not constitute a contract of employment. Employment with the Town of Cornwall is *at will* and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

Section 1: Applicability

This policy applies to all Town of Cornwall employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the town's personnel policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators.

For purposes of this policy,

Commercial motor vehicle or CMV means a motor vehicle or combination of motor vehicles as follows:

- Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.
- A combination vehicle with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- A vehicle designed to transport 16 or more passengers (including the driver).
- Any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin in 42 CFR part 73.

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (e.g. fire apparatus) are not CMVs).

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files as part of the driver qualification file. An acknowledgement form is included as Appendix C.

Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are

Town of Cornwall, Vermont

Drug & Alcohol Policy for CMV Operators

subject to this policy at all times while they are actively working and-during periods when they may be called into work (e.g., to respond to weather-related incidents, respond to emergency situations, etc.). Safety-sensitive functions and other terms are defined in Appendix A: Definitions.

See Section 6 (Alcohol and Drug Use) on Page 1 of the Cornwall Personnel Policy.

Section 2: Responsibility for Employee Information

The Town of Cornwall has assigned Susan Johnson (DER) as the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. Employees may also obtain information about applicable Federal regulations from 49 CFR. Sources of information are provided in Appendix B of this policy.

Section 3: Prohibited Conduct

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that he/she is called to report for duty.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.
- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).
- Reporting to work or remaining on duty requiring the performance of safety sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting to any required post-accident drug/alcohol testing, whichever occurs first.
- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

Town of Cornwall, Vermont

Drug & Alcohol Policy for CMV Operators

Section 4: "Testing Refusal" Defined

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when s/he does any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

Section 5: Testing

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable.

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 Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

Section 5a: The Drug Testing Process

The drug testing process will screen for drugs including marijuana, cocaine, opioids, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

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After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection procedure. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

An initial drug screen and validity test will be conducted on the primary urine 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 of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

If a drug test produces a result of negative dilute the employer will require the donor to submit to another specimen collection. The re-collection cannot be done under direct observation. If a second test is performed and is also negative-dilute, the employer must accept that result and cannot continue re-collections. The second test is the test of record. Under federal law, an applicant/employee's refusal to submit to a recollection for a negative-dilute result is a refusal to test.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result. The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Town of Cornwall Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

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Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.
- The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

Section 5b: Observed Collections

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

Section 5c: The Alcohol Testing Process

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the

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integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in

Section 6: Consequences of a Positive Test

An employee undergoing alcohol testing who does not to provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours.

Subsequent to the required 24-hour removal, the employee will:

- Meet with the Road Commissioner or Road Foreman to review the need to avoid alcohol use from any source during or proceeding work hours.
- If the employee has an alcohol test result of 0.02% to $\leq 0.039\%$ two or more times within a six month period, the employee will again meet with a municipal representative from the list above to review the need to avoid alcohol use. The employee will be provided with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.

An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality 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 affect the test result will not result in a cancelled test.

Section 5d: Pre-employment Testing

When an individual applies to work for the town in a position that involves the operation of a CMV, or when a municipal employee is under consideration for a position that involves the operation of a CMV, that person will be required to undergo pre-employment urine **drug** testing. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed **prior** to the individual working in the new position.

Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably feasible to coordinate and complete the test.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety sensitive duties, the

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municipality must receive evidence from a substance abuse professional that meets with the requirements 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required.

Any applicant who fails a pre-employment drug test will be provided the results of the test along with the current Invest EAP brochure. This serves to provide the individual with information about substance abuse treatment opportunities.

If a drug test produces a result of negative dilute the employer will require the donor to submit to another specimen collection. The re-collection cannot be done under direct observation. If a second test is performed and is also negative-dilute, the employer must accept that result and cannot continue re-collections. The second test is the test of record. Under federal law, an applicant/employee's refusal to submit to a recollection for a negative-dilute result is a refusal to test.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the municipal personnel policies. That employee will also be eliminated from consideration for the position which triggered the need for the pre-employment test.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or performs safety sensitive duties.

FMCSA Clearinghouse

Effective January 6, 2020 in accordance with 49 CFR, all drivers shall be subjected to a query of the FMCSA Clearinghouse prior to employment as well as yearly throughout the driver's employment with this company. This is an employer responsibility.

Drivers should also note that the following information will be reported to the Clearinghouse by both the Medical Review Officer, the Consortium/TPA and/or the employer. Drivers who fail to provide the necessary authorization to complete the initial or annual query will be subject to termination.

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to a drug or alcohol test;
- An employer's report of actual knowledge, as defined at 49 CFR § 382.107;
- On -duty alcohol use pursuant to 49 CFR § 382.205;
- Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- Alcohol use following an accident pursuant to 49 CFR § 382.209;
- Drug use pursuant to 49 CFR § 382.213;
- SAP's report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and,
- An employer's report of completion of follow-up testing.

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Section 5e: Random Testing

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third-party administrator, DISA. These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees.

The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations and updated each calendar year.

Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they notified that they have been selected for testing.

Section 5f: Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

The Town of Cornwall shall be responsible for transporting the employee who will be tested to a suitable testing site identified by DISA. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish his or her shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test.

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A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be prepared prior to the release of the test results. This written record shall be submitted to the Town Clerk – Town Treasurer.

A Reasonable Suspicion Checklist from the CMV manual will be completed.

Section 5g: Post Accident Testing

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by employer?
Human fatality	YES	YES
Human fatality	NO	YES
Bodily injury with immediate medical treatment away from the scene.	YES	YES
Bodily injury with immediate medical treatment away from the scene.	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	YES
Disabling damage to any motor vehicle requiring tow away.	NO	NO

All post-accident drug and alcohol testing should be completed within 2 hours of the accident.

If an alcohol test required by this section is not administered within two hours following the accident, the municipality will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test.

If a drug test required by this section is not administered within 32 hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required timeframe.

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Section 6: Consequences of a Positive Test

The medical review officer will report positive test results to the DER only after the verifying the test results as outlined in 49 CFR, Part 40 as amended. When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

On the day that the positive test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay. The employee's length of suspension will run the period of time in which it takes the individual to satisfactorily complete the treatment (as confirmed by the treating SAP), and last for up to 3 months from the date the positive test result was received. After that period, if the employee has not successfully completed treatment, the employee may be terminated.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties.

An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3-month suspension period must fulfill all return to duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

An employee who has a second positive test after completing return to duty testing may be terminated.

Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).

Section 7: Return to Duty Testing

Covered employees having a positive test will not be permitted to return to duty (to safety sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The SAP will provide written documentation that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing MUST be performed under direct observation.

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Section 8: Follow-Up Testing

After satisfactory completion of return to duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months after resuming safety sensitive duties. Follow-up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions. Follow-up testing **MUST** be performed under direct observation.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

Section 9: Employee Information

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

<http://www.samhsa.gov/>;

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm>

<http://www.investeap.org/>

<http://www.dot.gov/odapc/employee-handbook-english>

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APPENDIX A: Definitions

Accident means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, **disabling damage** means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
 - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
 - tire disablement without other damage even if no spare tire is available, or
 - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

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

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

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

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Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant bio-medical information.

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

Negative Dilute is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

Non-negative test result is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

Observed Collection means the donor will provide his or her sample under the direct observation of either a collector or another individual of the same gender. The donor must raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that he/she does not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return his/her clothing to its proper position for observed urination.

Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

Primary specimen. In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Safety-sensitive function includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.

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- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- 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; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Shy Bladder refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three hour time period.

Split specimen. In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or 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 or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

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APPENDIX B: Contacts & Information

DISA (formerly OCCUPATIONAL DRUG TESTING, LLC)

Manchester, NH
800-211-4469

VLCT/PACIF

Risk Management Services
89 Main St. Montpelier, Vermont 05602
802-229-9111

INVEST EAP (SAP services)

108 Cherry Street, Suite 203
Burlington, Vermont 05401
MAIN OFFICE: 888.392.0050
FAX: 802.863-7515
staff@investeap.org

Employee Access to Information

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

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APPENDIX C: CMV Drug & Alcohol Testing Policy-Acknowledgement Form

Town of Cornwall

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CMV Drug & Alcohol Testing Policy**. I understand that I must abide by its terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: _____

Signature of Employee/Applicant: _____

Employee/Applicant CDL ID #

Date: _____

Witness Signature: _____

Date: _____

Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File. Check here ☐ to confirm copy given to employee/applicant.

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APPENDIX D: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87

Initial test analyte	Initial test cutoff ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL ³	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA ⁴ /MDA ⁵	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

¹For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

²An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³*Alternate technology (THCA and Benzoylecgonine):* When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴Methylenedioxymethamphetamine (MDMA).

⁵Methylenedioxyamphetamine (MDA).

NOTE: These cutoff limits may be subject to periodic revision by DOT.

[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 49862, Aug. 16, 2010; 77 FR 26473, May 4, 2012; 82 FR 52244, Nov. 13, 2017]



U.S. Department of Transportation
Office of the Secretary

Office of Drug & Alcohol Policy & Compliance



**What Employees
Need To Know
About DOT Drug &
Alcohol Testing**



Disclaimer

This publication was produced by the U.S. Department of Transportation (DOT) to assist safety-sensitive employees subject to workplace drug & alcohol testing in understanding the requirements of 49 CFR Part 40 and certain DOT agency regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations. This publication is for educational purposes only.

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For questions, please contact DOT's Office of Drug & Alcohol Policy & Compliance at 202-366-DRUG (3784) or visit our website at www.transportation.gov/odapc.

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What Employees Need To Know About DOT Drug & Alcohol Testing

U.S. Department of Transportation (DOT)
Office of the Secretary (OST)
Office of Drug & Alcohol Policy & Compliance (ODAPC)

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What Employees Need To Know About DOT Alcohol & Drug Testing

Just entering the transportation industry? Performing tasks defined by the US Department of Transportation (DOT) as safety-sensitive, such as working on pipelines, driving a truck, operating a ferry or a train, or repairing an airplane? Then, you are subject to DOT workplace drug & alcohol testing. Here are the basics you need to know about DOT's program.

Who is subject to DOT testing?

Anyone designated in DOT regulations as a safety-sensitive employee is subject to DOT drug & alcohol testing. What follows is an overview of what jobs are defined as safety-sensitive functions subject to testing.

Aviation FAA	Persons that perform safety-sensitive functions, directly or by contract (including subcontract at any tier), for a part 119 certificate holder authorized to conduct part 121 or 135 operations; air traffic control facilities not operated by the FAA or under contract to the U.S. military; and all operators as defined in 14 CFR Section 91.147. The safety-sensitive duties include flight crewmember, flight attendant, flight instructor, air traffic controller, aircraft dispatcher, aircraft maintenance or preventative maintenance, ground security coordinator, aviation screeners and operations control specialist. See FAA regulations at 14 CFR Part 120.
Commercial Motor Carriers FMCSA	Commercial Drivers License (CDL) holders who operate Commercial Motor Vehicles, 26,001 lbs. gvwr. or greater, or operate a vehicle that carries 16 passengers or more including the driver, or required to display a DOT placard in the transportation of hazardous material. ¹ See FMCSA regulation at 49 CFR Part 382.
Maritime USCG ²	Crewmembers operating a commercial vessel. See USCG regulations at 46 CFR Parts 4 & 16.
Pipeline PHMSA	An employee who performs an operation, maintenance, or emergency-response function on a PHMSA regulated pipeline or liquefied natural gas (LNG) facility. See PHMSA regulations at 49 CFR Part 199.
Railroad FRA	Persons who perform duties subject to the Hours of Service laws; such as, locomotive engineers, trainmen, conductors, switchmen, locomotive hostlers/ helpers, utility employees, signalmen, operators and train dispatchers. In addition, a person who performs a maintenance-of-way/roadway worker function (as defined in 49 CFR Part 214) who are employees or contractors of a railroad, have a potential to foul the track, and perform a regulated function such as inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track, as well, flagman and watchmen/lookouts. See FRA Regulations at 49 CFR Part 219.
Transit FTA	Operators of revenue service vehicles when not in service, Operators of nonrevenue service vehicles when required to be operated by a holder of a commercial drivers' license, controlling dispatch or movement of revenue service vehicle, mechanics maintain a revenue service vehicle or equipment used in revenue service, and Fire armed security. See FTA regulations at 49 CFR Part 655.

Links to these regulations can be found on-line at www.transportation.gov/odapc.

¹ In some instances, states allow waivers from this qualification, such as operators of fire trucks and some farm equipment. Check with your state department of motor vehicles for more information.

² An agency of the U.S. Department of Homeland Security.

Remember: The tasks you actually perform qualify you as a safety-sensitive employee, not your job title. Also, some employees, like managers and supervisors, may be qualified for these jobs but not currently performing them. Do they have to be tested as well? In most cases, yes...if that employee may be asked at a moment's notice or in an emergency to perform a safety-sensitive job. Be sure to check industry specific regulations for further clarification.

Why are safety-sensitive employees tested?

The short answer is for the safety of the traveling public, co-workers and yourself. The longer answer is that the United States Congress recognized the need for a drug and alcohol free transportation industry, and in 1991 passed the Omnibus Transportation Employee Testing Act, requiring DOT Agencies to implement drug & alcohol testing of safety-sensitive transportation employees.³

Within DOT, the Office of the Secretary's Office of Drug & Alcohol Policy & Compliance (ODAPC) publishes rules on how to conduct those tests, what procedures to use when testing and how to return an employee to safety-sensitive duties. Encompassed in 49 Code of Federal Regulations (CFR) Part 40, ODAPC publishes and provides authoritative interpretations of these rules.

DOT agencies and the U.S. Coast Guard write industry specific regulations, spelling out who is subject to testing, when and in what situations. Industry employers implement the regulations that apply to them.

The benefit to all affected by DOT regulations is that each agency's regulations must adhere to DOT's testing procedures found at 49 CFR Part 40, commonly known as "Part 40." For example, you may work in the rail industry and later work in the motor carrier industry, but the procedures for collecting, testing and reporting of your tests will be the same under Part 40.

What information must employers provide when I first begin performing DOT safety-sensitive functions?

Depending on the DOT agency over-seeing your industry, your employer may be required to provide you with educational materials and a company policy that explain the requirements of DOT's drug & alcohol testing regulations and the procedures to help you comply. If you have not received this information, be sure to ask your employer about it.

What conduct is prohibited by the regulations?

As a safety-sensitive employee...

- You must not use or possess alcohol or any illicit drug while assigned to perform safety-sensitive functions or actually performing safety-sensitive functions.
- You must not report for service, or remain on duty if you...
 - Are under the influence or impaired by alcohol;
 - Have a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, some regulations do not permit you to continue working until your next regularly scheduled duty period);
 - Have used any illicit drug.

³ The Omnibus Act's testing requirements do not apply to PHMSA.

- You must not use alcohol within four hours (8 hours for flight crew members and flight attendants) of reporting for service or after receiving notice to report.
- You must not report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of an authorized medical practitioner.
- You must not refuse to submit to any test for alcohol or controlled substances.
- You must not refuse to submit to any test by adulterating or substituting your specimen.

Keep these in mind when preparing to report to work.

What drugs does DOT test for?

DOT drug tests are conducted only using urine specimens. The urine specimens are analyzed for the following drugs/metabolites:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines including methamphetamine, MDMA
- Opioids – codeine, heroin (6-AM), morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone
- Phencyclidine (PCP)

Specimens Collected for Drug & Alcohol Testing*

Drugs: Urine

Alcohol: Breath & Saliva

** The FRA requires blood specimens as part of their Post-Accident testing.*

To learn more about the effects of these and other drugs visit the following sites:

- Drugs and Human Performance Fact Sheet. National Highway Traffic Safety Administration (NHTSA) www.nhtsa.dot.gov.
- Driving While You Are Taking Medications. National Highway Traffic Safety Administration (NHTSA) www.nhtsa.dot.gov.
- Drugs of Abuse. National Institute for Drug Abuse (NIDA) <https://www.drugabuse.gov/drugs-abuse>
- Drug Facts. National Institute on Drug Abuse (NIDA) <https://www.drugabuse.gov/publications/finder/t/160/drugfacts>
- Drug Fact Sheets. Drug Enforcement Administration (DEA) <https://www.dea.gov/druginfo/factsheets.shtml>

To learn about where to dispose of unused medicines go to:
<https://takebackday.dea.gov>

Can I use prescribed medications & over-the-counter (OTC) drugs and perform safety-sensitive functions?

Prescription medicine and OTC drugs may be allowed.⁴ However, you must meet the following minimum standards:

- The medicine is prescribed to you by a licensed physician, such as your personal doctor.
- The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of your duties.

⁴ The FRA requires that if you are being treated by more than one medical practitioner, you must show that at least one of the treating medical practitioners has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.

Best Practice: To assist your doctor in prescribing the best possible treatment, consider providing your physician with a detailed description of your job. A title alone may not be sufficient. Many employers give employees a written, detailed description of their job functions to provide their doctors at the time of the exam.

- The substance is used at the dosage prescribed or authorized.⁵
- If you are being treated by more than one physician, you must show that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of your duties.
- Taking the prescription medication and performing your DOT safety-sensitive functions is not prohibited by agency drug and alcohol regulations. However, other DOT agency regulations may have prohibitive provisions, such as medical certifications.

Remember: Some agencies have regulations prohibiting use of specific prescription drugs, e.g. methadone, etc.... If you are using prescription or over-the-counter medication, check first with a physician, but do not forget to consult your industry-specific regulations before deciding to perform safety-sensitive tasks. Also be sure to refer to your company's policy regarding prescription drugs.

When will I be tested?

Safety-sensitive employees are subject to drug or alcohol testing in the following situations:

- Pre-employment.
- Reasonable Suspicion/Cause.
- Random.
- Return-to-duty.
- Follow-up.
- Post-Accident.

Pre-Employment

As a new hire, you are required to submit to a drug test. Employers may, but are not required to, conduct alcohol testing.⁶ Only after your employer receives a negative drug test result (and negative alcohol test result - if administered) may you begin performing safety-sensitive functions. This also applies if you are a current employee transferring from a non-safety-sensitive function into a safety-sensitive position (even if it is the same employer).

Reasonable Suspicion/Cause

You are required to submit to any test (whether drug, alcohol or both) that a supervisor requests based on reasonable suspicion. Reasonable suspicion means that one or more trained supervisors reasonably believes or suspects that you are under the influence of drugs or alcohol. They cannot require testing based on a hunch or guess alone; their suspicion must be based on observations concerning

⁵ While states may allow medical use of marijuana, federal laws and policy do not recognize any legitimate medical use of marijuana. Even if a state allows the use of marijuana, DOT regulations treat its use as the same as the use of any other illicit drug.

⁶ Not every DOT agency requires a pre-employment alcohol test.

your appearance, behavior, speech and smell that are usually associated with drug or alcohol use.

Random

You are subject to unannounced random drug & alcohol testing. Alcohol testing is administered just prior to, during or just after performing safety-sensitive functions. Depending on the industry specific regulations, you may only be subject to random drug testing.⁷

No manager, supervisor, official or agent may select you for testing just because they want to. Under DOT regulations, employers must use a truly random selection process. Each employee must have an equal chance to be selected and tested.

Just prior to the testing event, you will be notified of your selection and provided enough time to stop performing your safety sensitive function and report to the testing location. Failure to show for a test or interfering with the testing process can be considered a refusal.

Post-Accident

If you are involved in an event (accident, crash, etc.) meeting certain criteria of the DOT agency, a post-accident test will be required. You will then have to take a drug test and an alcohol test.⁸ You are required to remain available for this testing and are not permitted to refuse testing.

Remember: Safety-sensitive employees are obligated by law to submit to and cooperate in drug & alcohol testing mandated by DOT regulations.

Return to Duty

If you have violated the prohibited drug & alcohol rules, you are required to take a drug and/or alcohol test before returning to safety-sensitive functions for any DOT regulated employer. You are subject to unannounced follow-up testing at least 6 times in the first 12 months following your return to active safety-sensitive service. Return-to-duty tests must be conducted under direct observation.

Follow-up

The amount of follow-up testing you receive is determined by a Substance Abuse Professional (SAP) and may continue for up to 5 years. This means the SAP will determine how many times you will be tested (at least 6 times in the first year), for how long, and for what substance (i.e. drugs, alcohol, or both). Your employer is responsible for ensuring that follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. All follow-up tests will be observed.

How is a urine drug test administered?

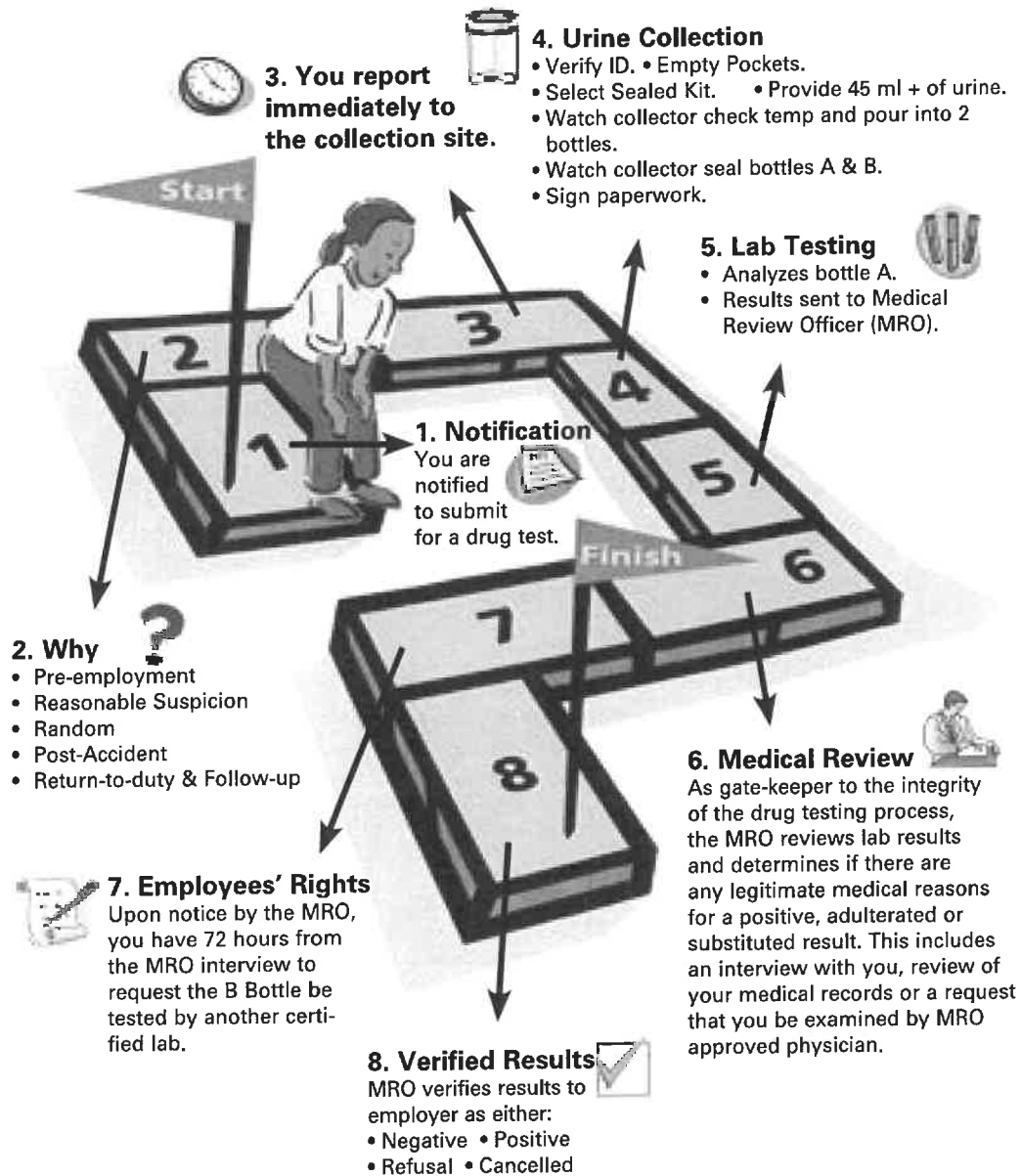
Regardless of the DOT agency requiring the drug test, the drug testing process always consists of three components:

- The Collection. (49 CFR Part 40, Subparts C, D, E)
- Testing at the Laboratory. (49 CFR Part 40, Subpart F)
- Review by the Medical Review Officer. (49 CFR Part 40, Subpart G)

⁷ USCG & PHMSA do not perform random alcohol tests.

⁸ In post-accident testing, the FRA requires a blood specimen for drug testing.

Overview of DOT Drug Testing



What follows is a summary of the procedures for each step. For a more detailed account, please visit 49 CFR Part 40, which can be found in its entirety at www.transportation.gov/odapc.

The Collection

During the collection process, a urine specimen collector will:

- Verify your identity using a current valid photo ID, such as driver's license, passport, employer issued picture ID, etc.
- Create a secure collection site by:
 - Restricting access to the site to only those being tested.
 - Securing all water sources and placing blue dye in any standing water.
 - Removing or securing all cleaning products/fluids at the collection site.
- Afford you privacy to provide a urine specimen.
 - Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature.
- Ask you to remove any unnecessary garments and empty your pockets (you may retain your wallet).
- Instruct you to wash and dry your hands.
- Select or have you select a sealed collection kit and open it in your presence.
- Request you to provide a specimen (a minimum of 45 mL) of your urine into a collection container.
- Check the temperature and color of the urine.
- In your presence, pour the urine into two separate bottles (A or primary and B or split), seal them with tamper-evident tape, and then ask you to sign the seals after they have been placed on the bottles.

Remember: Neither you nor the collector should let the specimen out of your sight until it has been poured into two separate bottles and sealed.

- Ask you to provide your name, date of birth, and daytime and evening phone numbers on the Medical Review Officer Copy (Copy #2) of the Federal Drug Testing Custody and Control Form (CCF).
 - This is so the Medical Review Officer (MRO) can contact you directly if there are any questions about your test.
- Complete necessary documentation on the "Test Facility Copy" (Copy #1) of the CCF to demonstrate the chain of custody (i.e. handling) of the specimen.
- Give you the Employee Copy (Copy # 5) of the CCF and may suggest you list any prescription and over-the-counter medications you may be taking on the back of your copy of the CCF (this may serve as a reminder for you in the event the MRO calls you to discuss your test results).
- Package and ship both sealed bottles and completed CCF to a U.S. Health and Human Services (HHS) certified testing laboratory as quickly as possible.

If you are unable to provide 45 mL of urine on the first attempt, the time will be noted, and you will be:

- Required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from your company,
 - Leaving the testing area without authorization may be considered a refusal to test
- Urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours,

- Asked to provide a new specimen (into a new collection container).
- If you do not provide a sufficient specimen within three hours, you must obtain a medical evaluation⁹ within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.

How do you know if you are taking a federal or a private company drug test?

All DOT drug tests are completed using the Federal Drug Testing Custody and Control Form. Those words appear at the top of each form.

Testing at the Laboratory

At the laboratory, the staff will:

- Determine if flaws exist. If flaws exist, the specimen is rejected for testing.
- Open only the A bottle and conduct a screening test. Specimens that screen positive will be analyzed again using a completely different testing methodology.
 - If the specimen tests negative in either test, the result will be reported as a negative.
 - Only if the specimen tests positive under both methods will the specimen be reported to the medical review officer as a positive test.
- Report the findings of the analysis of the A bottle to the Medical Review Officer (MRO).
- Store the A and B bottles for any reported positive, adulterated, or substituted result for at least 12 months.

Remember: The Lab will conduct specimen validity tests (SVTs) to determine if the specimen was adulterated or substituted. Tests found to be adulterated or substituted are also reported to the MRO and may be considered a refusal to test.

Review by the Medical Review Officer (MRO)

Upon receipt of the test result from the laboratory, the MRO will:

- Review paperwork for accuracy.
- Report a negative result to the Designated Employer Representative (DER).
- If the result is positive, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as negative. If not, the MRO will report the result to the DER as positive.
- If the result is an adulterated or substituted test, conduct an interview with you to determine if there is a legitimate medical reason for the result. If a legitimate medical reason is established, the MRO will report the result to the DER as cancelled. If not, the MRO will report the result to the DER as a refusal.
- Report a non-negative test result to the DER if:
 - You refused to discuss the results with the MRO;
 - You did not provide the MRO with acceptable medical documentation to explain the non-negative test result.

⁹ The physical exam is scheduled after the designated employer representative consults with the medical review officer. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the Medical Review Officer.

- Inform you that you have 72 hours from the time of the verified result to request to have your B “split” bottle sent to another certified lab for analysis for the same substance or condition that was found in the A “primary” bottle.

If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?

The DOT’s regulation requires 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’.

Prior to the MRO reporting your information to a third party you will have up to five days to have your prescribing physician contact the MRO. You are responsible for facilitating the contact between the MRO and your prescribing physician. Your 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 or does not pose a significant safety risk.

What are Medical Review Officers (MROs)?

Under DOT regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

How is an alcohol test administered?

The DOT performs alcohol testing in a manner to ensure the validity of the testing as well as provide confidentiality of the employee’s testing information.

How do you know if you are taking a federal or a private company alcohol test?

All DOT alcohol tests are documented with a form with the words Department of Transportation at the top.

At the start of the test, a Screening Test Technician (STT) or a Breath Alcohol Technician (BAT), using only a DOT-approved device, will:

- Establish a private testing area to prevent unauthorized people from hearing or seeing your test result.
- Require you to sign Step #2 of the Alcohol Testing Form (ATF).
- Perform a screening test and show you the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide you a copy and provide your employer a copy.

If the screening test result is 0.02 or greater, you will be required to take a confirmation test, which can only be administered by BAT using an Evidential Breath Testing (EBT) device. The BAT will:

- Wait at least 15 minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, you are not allowed to eat, drink, smoke, belch, put anything in your mouth or leave the testing area.

Remember: Leaving the testing area without authorization may be considered a refusal to test.

- Perform an "air blank" (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it.
- Perform a confirmation test using a new mouthpiece.
- Display the test result to you on the EBT and on the printout from the EBT.
- Document the confirmation test result on the ATF, provide you a copy and provide your employer a copy.
- Report any result of 0.02 or greater immediately to the employer.

If after several attempts you are unable to provide an adequate amount of breath, the testing will be stopped. You will be instructed to take a medical evaluation to determine if there is an acceptable medical reason for not providing a sample. If it is determined that there is no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

Confirmation test results are the final outcome of the test.	
Result	Action
Less than 0.02	No action required under 49 CFR Part 40.
0.02 – 0.039	Varies among DOT agencies. For example, FMCSA requires that you not resume safety-sensitive functions for 24 hours [382.505], while the FRA requires 8 hours [219.101(a)(4)]. The FTA & PHMSA require only that you test below 0.02 or cannot work until the next scheduled duty period but not less than 8 hours from the time of the test [655.35 & 199.237 respectively]. And, the FAA requires only that you test below 0.02, if the employer wants to put you back to work within 8 hours [14 CFR Part 120, Subpart F, 120.217(g)]. Also, be sure to check other agency specific regulations for their restrictions.
0.04 or greater	Immediate removal from safety-sensitive functions. You may not resume safety-sensitive functions until you successfully complete the return-to-duty process.

Should I refuse a test if I believe I was unfairly selected for testing?

Rule of Thumb: Comply then make a timely complaint.

If you are instructed to submit to a DOT drug or alcohol test and you don't agree with the reason or rationale for the test, take the test anyway. Don't interfere with the testing process or refuse the test.

After the test, express your concerns to your employer through a letter to your company's dispute resolution office, by following an agreed upon labor grievance or other company procedures. You can also express your concerns to the

appropriate DOT agency drug & alcohol program office. (See contact numbers listed in the Appendix.) Whomever you decide to contact, please contact them as soon as possible after the test.

What is considered a refusal to test?

DOT regulations prohibit you from refusing a test. The following are some examples of conduct that the regulations define as refusing a test (See 49 CFR Part 40 Subpart I & Subpart N):

Drug Testing:

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine sample for any test required by federal regulations.
- Failure to permit the observation or monitoring of you providing a urine sample (Please note tests conducted under direct observation or monitoring occur in limited situations. The majority of specimens are provided in private).
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to take a second test when directed to do so.
- Failure to undergo a medical evaluation as part of "shy bladder" procedures.
- Providing a specimen that is verified as adulterated or substituted.
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- Failure to follow the observer's instructions [during a direct observation collection] to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

Alcohol Testing:

- Failure to appear for any test after being directed to do so by your employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to sign Step #2 of the ATF
- Failure to provide a breath sample for any test required by federal regulations.
- Failure to provide a sufficient breath sample when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure.
- Failure to undergo a medical evaluation as part of "shy lung" procedures.
- Failure to cooperate with any part of the testing process.

What happens if I test positive, refuse a test, or violate an agency-specific drug & alcohol rule?

If you test positive, refuse a test, or violate DOT drug & alcohol rules:

- A supervisor or company official will immediately remove you from DOT-regulated safety-sensitive functions.

- You will not be permitted to return to performing DOT regulated safety-sensitive duties until you have:
 - Undergone an evaluation by a Substance Abuse Professional (SAP);
 - Successfully completed any education, counseling or treatment prescribed by the SAP prior to returning to service; and
 - Provided a negative test result for drugs and/or a test result of less than 0.02 for alcohol. (Return to duty testing).
- Upon return to a safety-sensitive job, you will be subject to unannounced testing for drugs and/or alcohol no less than 6 times during the first 12 months of active service with the possibility of unannounced testing for up to 60 months (as prescribed by the SAP). These tests (including the return-to-duty test) will be directly observed.

What are Substance Abuse Professionals (SAPs)?

Under DOT regulations, SAPs are Substance Abuse Professionals. They play a critical role in the work place testing program by professionally evaluating employees who have violated DOT drug & alcohol rules. SAPs recommend appropriate education, treatment, follow-up tests, and aftercare. They are the gate-keepers to the re-entry program by determining when a safety-sensitive employee can be returned to duty.

SAPs are required to have a certain background and credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. They must also complete qualification training and fulfill obligations for continuing education courses. While SAPs do make recommendations to the employer about an employee's readiness to perform safety-sensitive duties, SAPs are neither an advocate for the employee or the employer, and they make return-to-duty recommendations according to their professional and ethical standards as well as DOT's regulations.

Remember: Even if a SAP believes that you are ready to return to work, an employer is under no obligation to return you to work. Under the regulations, hiring and reinstatement decisions are left to the employer. Also, under FAA regulations, SAPs cannot return a pilot to duty without the prior approval of the FAA's Federal Air Surgeon.

How do I find a SAP?

If you violate a DOT drug or alcohol rule, your employer is required to provide you with a list of SAPs' names, addresses, and phone numbers that are available to you and acceptable to them.¹⁰ This is true even if your employer terminates your employment.

Will I lose my job if I violate drug & alcohol regulations?

DOT regulations do not address employment actions such as hiring, firing or granting leaves of absence. All employment decisions are the responsibility of the employers. Under Federal regulations, the main requirement for employers is to immediately remove employees from performing DOT safety-sensitive jobs. Be aware that a positive or refused DOT drug or alcohol test may trigger additional consequences based on company policy or employment agreement.

¹⁰ Employers cannot charge employees for the SAP list.

While you may not lose your job, you may lose your certification or license to perform that job. Be sure to check industry specific regulations. For example, someone operating a commercial motor vehicle may not lose their state-issued CDL, but they will lose their ability to perform any DOT regulated safety-sensitive tasks.

Will my results be confidential?

Your test results are confidential. An employer or service agent (e.g. testing laboratory, MRO or SAP) is not permitted to disclose your test results to outside parties without your written consent. But, your test information may be released (without your consent) in certain situations, such as: legal proceedings, grievances, or administrative proceedings brought by you or on your behalf, which resulted from a positive or refusal. When the information is released, the employer must notify you in writing of any information they released.

Will the results follow me to different employers?

Yes, your drug & alcohol testing history will follow you to your new employer, if that employer is regulated by a DOT agency. Employers are required by law to provide records of your drug & alcohol testing history to your new employer. This is to ensure that you have completed the return-to-duty process and are being tested according to your follow-up testing plan.

What should I do if I have a drug or alcohol abuse problem?

Seek help. Jobs performed by safety-sensitive transportation employees keep America's people and economy moving. Your work is a vital part of everyday life. Yet, by abusing drugs or alcohol, you risk your own life, your co-workers lives and the lives of the public.

Most every community in the country has resources available to confidentially assist you through the evaluation and treatment of your problem. If you would like to find a treatment facility close to you, check with your local yellow pages, local health department or visit the U.S. Department of Health and Human Services treatment facility locator at <http://findtreatment.samhsa.gov/>. This site provides contact information for substance abuse treatment programs by state, city and U.S. Territory.

Also, many work-place programs are in place to assist employees and family members with substance abuse, mental health and other problems that affect their job performance. While they may vary by industry, here is an overview of programs that may be available to you:

Employee Assistance Programs (EAPs)

While not required by DOT agency regulations, EAPs may be available to employees as a matter of company policy. EAPs are generally provided by employers or unions.

Note: Many employees believe they only need to contact an EAP counselor if they have a positive drug and/or alcohol test. Not true!

EAP programs vary considerably in design and scope. Some focus only on substance abuse problems; others undertake a broad brush approach to a range

of employee and family problems. Some include prevention, health and wellness activities. Some are linked to the employee health benefit structures. These programs offer nearly full privacy and confidentiality, unless someone's life is in danger.

Do you know what programs are available at your job? Be sure to ask your employer!

Voluntary Referral Programs

Often sponsored by employers or unions, referral programs provide an opportunity to self-report to your employer a substance abuse problem before you violate testing rules. This gives you an opportunity for evaluation and treatment, while at times guaranteeing your job. Be sure to check your company to see if there is a voluntary referral program.

Remember: Self-reporting just after being notified of a test does not release you from your responsibility of taking the test, and it also does not qualify as a voluntary referral.

Peer Reporting Programs

Generally sponsored by employers or unions, you are encouraged or required to identify co-workers with substance abuse problems. The safety of everyone depends on it. Using peers to convince troubled friends and co-workers with a problem is one of the strengths of the program, often guaranteeing the co-worker struggling with substance abuse issues the same benefits as if he had self-reported.

Education and Training Programs (required by all Agencies)

Topics may include the effects of drugs & alcohol use, company testing policies, DOT testing regulations and the consequences of a positive test. Materials may also contain information on how employees can get in touch with their Employee Assistance Programs and community service hot-lines.

In addition, supervisors sometimes receive additional training in the identification and documentation of signs and symptoms of employee's drug and/or alcohol use that trigger a reasonable suspicion drug or alcohol test.

Did you know?

Did you know that 6 out of 10 people suffering from substance abuse problems also suffer from mental conditions like depression?¹¹ Research has long documented that people suffering from depression try to self-medicate themselves through alcohol and other drugs. Typically, many of these individuals fail to remain clean and sober after rehabilitation because their underlying medical problem is not addressed and the cycle of self-medication begins again.

Remember: If you have substance abuse issues, there is a 60% chance that you are also suffering from an underlying mental condition like depression.

Increase your chances of rehabilitation. Be sure to ask your doctor or other mental health professionals about depression as it relates to substance abuse issues.

¹¹ The Dual Challenge of Substance Abuse and Mental Disorders, NIDA Director Nora D. Volkow, M.D., NIDA Notes, Vol. 18, No. 5.

But, I have more questions?

ODAPC is available to help answer anyone's questions regarding DOT drug & alcohol testing regulations. Please contact us at 202-366-DRUG (3784) or visit our website at www.transportation.gov/odapc for frequently asked questions, official interpretations of the regulations and regulatory guidelines.

If you have questions regarding DOT agency regulations on a specific industry, contact the agencies drug & alcohol abatement offices listed in the Appendix.

Appendix

Drug & Alcohol Program Manager Contact Information

U.S. Department of Transportation

FAA	Aviation	(202) 267-8442	www.faa.gov
FMCSA	Motor Carrier	(202) 366-2096	www.fmcsa.dot.gov
FTA	Public Transportation	(617) 494-2395	www.transit.dot.gov
FRA	Railroads	(202) 493-6313	www.railroads.dot.gov
PHMSA	Pipeline	(909) 937-7232	www.phmsa.dot.gov

U.S. Department of Homeland Security

USCG	Maritime	(202) 372-1033	http://www.uscg.mil
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Notes

Changes from previous version [April 2014]:

- **Inside Front Cover:** Removed room number from office address and paragraph on 'electronic access to publication'
- **Page iv:** Added text "This page intentionally left blank"
- **Page v:** Added text to various section headings to match those in booklet and updated pagination
- **Page 1:** Added/updated text to FAA, PHMSA, FRA and FTA sections of the table
- **Page 3:** Updated list of drugs for which DOT tests
- **Page 3:** Added/removed web resources on 'effects of drugs' and 'where to dispose of unused medicines'
- **Page 4:** Updated footnote #5 to clearly state that State allowance of marijuana is not recognized
- **Page 7:** 11th bullet under 'The Collection' heading, replaced text 'Laboratory Copy' with 'Test Facility Copy'
- **Page 9:** Added new question and answer: "If I disclose my prescribed medication use/medical information to the MRO during my interview, will the MRO report that information to a third party?"
- **Page 11:** Reformatted refusal section into "Drug Testing" and "Alcohol Testing" sections
- **Page 15:** Appendix: In the Drug & Alcohol Program Manager Contact Information section, updated PHMSA's telephone number and updated FTA, FRA, and USCG's web addresses
- **Page 15:** Removed ODAPC contact information because it is on the inside cover of this publication
- **Inside Back Cover:** Added section to list text changes from previous version
- **Back Cover:** Changed revision date from 'April 2014' to 'March 2019'
- Updated various web site addresses/hyperlinks throughout the document, and reformatted pages as needed



U.S. Department
of Transportation

Personnel Policies

Town of Cornwall, Vermont

Section 1: Title and Authority

This policy shall be known as the Town of Cornwall personnel policy. It has been adopted by the Town of Cornwall Select Board pursuant to 24 V.S.A. §§ 1121 and 1122.

This personnel policy does not constitute a contract of employment. Employment with the Town of Cornwall is *at will* and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The Select Board reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

This personnel policy will be administered by the Select Board or its authorized representative.

Section 2: Persons Covered

This personnel policy applies to full-time and part-time employees of the Town of Cornwall. Except as stated herein, elected officers and their statutory assistants, members of Town boards and commissions, volunteers, seasonal employees and persons who provide the Town with services on a contract basis are not covered by this policy.

For purposes of this policy, a full-time employee is an employee who works at least 32 hours per week on a regular and continuing basis. A part-time employee is an employee who works fewer than 32 hours per week on a regular and continuing basis.

Section 3: Equal Employment Opportunity

The policy of the Town of Cornwall is to provide equal opportunity to all employees and applicants without regard to race, color, religion, gender, sexual orientation, age, nationality, origin, marital status, disability, veteran's status or any other category under local, state or federal law.

Section 4: Probationary Period

All new employees will be required to complete a three-month probationary period. New employees will be eligible for benefits after successfully completing the probationary period. During the probationary period, an employee may be terminated at any time at the sole discretion of the Town. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

Section 5: Hours of Service

Work hours will be determined by the individual department head.

Section 6: Alcohol and Drug Use

Reporting to work or working under the influence of alcohol or drugs is strictly prohibited, unless the drug is prescribed and used in the manner prescribed by a duly licensed physician or dentist. See the Controlled Substance and Alcohol Employee testing policy approved by the Select Board on August 4, 2009, reviewed June 2022.

Section 7: Tobacco Use

In recognition of the hazards that smoking poses to the health of employees, and in accordance with 18 V.S.A. §§ 1421 et seq. and §§ 1741 et seq., the Town hereby prohibits employees' use of all tobacco products in any form in all publicly owned buildings, offices and enclosed areas, and in all Town vehicles.

Section 8: Performance Evaluations

Employees may be subject to job performance evaluations at such times and in such manner as the Select Board or its authorized representative deems reasonable.

The results of such evaluations will be submitted to the employee, the employee's supervisor, the Select Board and will become a part of the employee's personnel file.

Section 9: Personnel Records

Personnel records will be maintained for each employee of the Town. In accordance with Vermont's Public Records Law, any employee or the employee's designated representative may inspect or copy his or her personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

Section 10: Use of Town Computer System

The Town computer system is to be used by employees for the purpose of conducting Town business. Employees should have no expectation of privacy regarding anything created, sent or received on the Town computer system. The Town may monitor any and all computer transactions, communications and transmissions to ensure compliance with this policy and to evaluate the use of its computer system. All files, documents, data and other electronic messages created, received or stored on the Town computer system are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Law.

Email messages that are intended to be temporary, non-substantive communications may be routinely discarded. However, employees must recognize that emails sent, received, or stored on the Town computer system are subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention schedule for municipal records.

Section 11: Eligibility for Benefits

The town offers group health insurance programs for the benefit of its eligible full and part time employees. Eligibility begins after the three-month probationary period. Elected officials may be eligible for benefits through a written agreement with the Select Board.

Part-time employees who are regularly scheduled to work at least 32 hours a week are eligible to receive the above benefits on a prorated basis, subject to the eligibility requirements of the insurance carrier.

The town reserves the right to change insurance carriers, or to add, delete or amend insurance benefit programs in its sole discretion. The town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance program. Employees will be provided with advance notice of any change in the contribution rate.

Section 12: Holiday Leave

After the probationary period, full and part time employees will receive the following paid holiday leave:

- New Year's Day (January 1)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (1st Monday in September)
- Thanksgiving Day (4th Thursday in November)
- Christmas Day (December 25)

Employees will receive holiday leave pay at the employee's regular rate of pay. Part-time employees will receive prorated holiday leave pay based on the number of hours the employee is regularly scheduled to work.

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday.

Holidays that fall during an employee's vacation leave will not be charged as vacation leave.

Section 13: Vacation Leave

After the probationary period, full and part time employees will accrue vacation at the following annual rates:

<u>Years of Service</u>	<u>Annual Accrual Rate</u>
1st year	5 days
2nd through 9th year	10 days
10th year through 14th year	15 days
15th and subsequent years	1 day per year of service

Full-time employees will receive vacation leave pay at the employee's regular rate of pay. Part-time employees will receive prorated vacation leave pay based on the number of hours the employee is regularly scheduled to work in a week.

Employees are strongly encouraged to take an annual vacation. If an employee does not use all of the employee's vacation leave in a year, the employee may carry unused vacation leave forward to the next year (CTO time) to a maximum of 240 hours.

An employee who resigns from employment with the Town will be compensated for unused CTO time.

Section 14: Sick Leave

Employees will receive 10 paid sick leave days per year after the completion of the probationary period. An employee may use sick leave for an illness or injury that prevents the employee from performing the employee's job duties. An employee may also use sick leave to attend the following appointments that cannot be held outside normal working hours:

- A medical appointment
- An appointment eligible for short-term family leave under the provisions of the Vermont Parental and Family Leave Act (21 V.S.A. § 472a).
- Any other appointments authorized in advance by the employee's supervisor.

Full-time employees will receive sick leave pay at the employee's regular rate of pay. Part-time employees will receive prorated sick leave pay based on the number of hours the employee is regularly scheduled to work in a week. If an employee does not use all of the employee's sick leave in a year, the employee may carry unused sick leave forward to the next year (CTO Time) to a maximum of 240 hours. An employee who resigns from employment with the Town will be compensated for unused CTO time.

Section 15: CTO

Holiday, Vacation and Sick Leave will be calculated using CTO (Combined Time Off). The total number of hours the employee is eligible to receive for the year and will be calculated to determine the amount to be accrued for the number of hours worked each week. The amount accrued will be prorated based on the actual hours worked for the week.

Section 16: Bereavement Leave

Employees will receive 3 paid bereavement leave days per year. Employees may use bereavement leave for the death of a close relative or any other relative if the relative was living in the same household as the employee immediately preceding his or her death.

Pay for bereavement leave will be at the employee's regular rate of pay. Part-time employees will receive prorated bereavement leave pay based on the number of hours the employee is regularly scheduled to work in a week.

If an employee does not use the entire bereavement leave in a year, the employee may not carry the unused leave forward to the next year. Upon separation from employment, an employee will not be compensated for unused bereavement leave.

Section 17: Parental and Family Leave

Eligible employees may receive leave as described in the Family and Medical Leave Act (FMLA) and the Vermont Parental and Family Leave Act (PFLA). These federal and state laws will determine employee eligibility, the qualifying reasons for such leave and the length of leave.

Section 18: Short Term Family Leave

In accordance with the Vermont Short Term Family Leave Law, eligible employees may be entitled to take unpaid leave not to exceed four hours in any thirty-day period and not to exceed twenty-four hours in any twelve-month period for the following purposes:

- To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, step-child, foster child, or ward;
- To attend or accompany the employee's child or other family member to routine medical or dental appointments;
- To accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being; or
- To respond to a medical emergency of the employee's family member.

The Town may require that leave be taken in a minimum of two-hour segments. At the option of the employee, accrued paid leave may be used. An employee shall make a reasonable attempt to schedule appointments for which leave may be taken outside of regular work hours. An employee shall provide the Town with the earliest possible notice of the intent to take short term family leave, but in no case later than seven days before leave is to be taken, except in the case of an emergency.

Section 19: Military Leave

The Town will comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4303 et seq., and 21 V.S.A. §§ 491 et seq.

Section 20: Overtime and Compensatory Time Off

In accordance with the Fair Labor Standards Act, the Town compensates all nonexempt employees at the rate of one and one-half hours for each hour actually worked in excess of forty hours in any workweek. Employees employed in executive, administrative or professional capacities as defined by the FLSA are exempt from this requirement.

In lieu of overtime pay, nonexempt employees may accrue compensatory time off ("comp time") subject to the following conditions:

- Comp time is earned at a rate of one and one half hours for each hour worked in excess of forty hours in any workweek.
- An employee may accrue a maximum of four hundred and eighty hours of comp time (480 hours of comp time represents 320 hours of actual overtime work). An employee who has accrued 480 hours of comp time will be paid overtime compensation for additional overtime hours of work.
- An employee may, at the Town's discretion, be paid in cash in lieu of compensatory time off.
- An employee receiving payment for accrued comp time will be paid at the regular rate of pay earned by the employee at the time the employee receives such payment.
- Upon termination from employment, an employee will be paid for unused comp time at a rate not less than the average regular rate of pay received by the employee during the last three years of employment or the employee's final regular rate of pay, whichever is higher.

An employee who has accrued comp time and requested use of comp time will be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt the Town's operations. Requests for use of comp time must be submitted to the employee's supervisor, who will have sole discretion to grant or deny the request. Requests for use of comp time will not unreasonably be withheld.

Section 21: Employment Discrimination

Vermont and federal law prohibit employment discrimination or retaliation based on race, color, religion, gender, national origin, age, or against a qualified individual with a disability with respect to all employment practices. Vermont law also prohibits discrimination based on sexual orientation, ancestry, HIV status, and place of birth. It is also unlawful to retaliate against employees or applicants who have alleged employment discrimination. The Town of Cornwall will adhere to all Federal and State laws relating to employment discrimination.

Section 22: Sexual Harassment

Sexual harassment in the workplace is illegal under federal and Vermont law and is strictly prohibited. The Town is committed to providing a workplace free from this unlawful conduct. Please see the Town of Cornwall's Sexual Harassment Policy.

Section 23: Employee Discipline

The Town of Cornwall has adopted a progressive discipline process to identify and address employee and employment related problems. The Town's progressive discipline process applies to any and all employee conduct that the Town in its sole discretion, determines must be addressed by discipline.

The progressive discipline process does not apply to elected officers and their statutory assistants. However, an elected officer may choose to follow the requirements of this policy for discipline and termination of his or her statutory assistants. A statutory assistant means an individual appointed to his or her position by an elected officer of the Town having express statutory authority to appoint an assistant. Statutory assistants include the assistant clerk and the assistant treasurer.

Under the town's progressive discipline process, an employee may be subject to disciplinary action, up to and including termination, for violation of the provisions of this personnel policy and/or failure to maintain an acceptable level of performance. The Town may take prior disciplinary action into consideration when disciplining or terminating an employee.

Section 24: Employee Termination Process

The Town of Cornwall has adopted an employment termination process. Most often, employee conduct that warrants termination results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, termination may result from conduct that falls outside of those identified areas. The Town need not utilize this termination process but may take whatever action it deems necessary to address the issue at hand.

The Town also retains the right to unilaterally eliminate a position and thus terminate employment or reduce the work hours for some or all employees due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons. In such case, this termination process does not apply.

Probationary employees are not subject to the Town's termination process. Notwithstanding any other provision of this policy, an employee terminated during the probationary period will have no right to appeal such termination.

Section 25: Severability

If any provision of this personnel policy or the application hereof to any person or a circumstance(s) is held invalid, this invalidity does not effect other provisions or applications of the personnel rules which can be given effect without the invalid provision or application. For this purpose, this personnel policy is severable.

Reviewed by Select Board: February 2010; June 2022
Approved/Adopted by Select Board: April 20, 2010