Town of Fair Haven THE SLATE CENTER OF THE NATION • CHARTERED OCTOBER 27, 1779

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CDL Drug & Alcohol Policy & Guidance

1. Applicability

This policy applies to all Fair Haven employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. CMVs are defined as follows:

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);
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds);
- 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).

Individuals operating the above vehicles must have a valid *commercial driver's license* (CDL).

This policy establishes the procedures and practices necessary to comply with Federal Motor Carrier Safety Administration (FMCSA) and US Department of Transportation (DOT) drug and alcohol testing and policy requirements. It includes all 11 elements required under these regulations. Additional supporting information is located in the appendices.

Each employee who is subject to this policy is required to sign an acknowledgement that s/he has been provided a copy of this policy. This will be maintained as part of the driver qualification file. A sample acknowledgement form is included as Appendix C.

CDL drivers have the potential to serve in safety-sensitive functions during any part of their job, given the varied nature of municipal needs. Therefore, they must consider themselves subject to this policy at all times while they are actively working or during periods when they may be called into work (e.g. snowstorms and related maintenance, emergency situations, etc.) Safety-sensitive functions and other terms are defined in Appendix A: Definitions. "Call-ins" are determined by the Union Contract in effect or via an employee's contract respective to the position.

2. Responsibility for Employee Information

The Selectboard has assigned the Town Manager as the individual who can provide employees with information regarding the policy herein and answers to pertinent issues.

3. Prohibited Conduct

Conduct listed in this section is prohibited. **A CDL driver in violation of the provisions in this section is subject to disciplinary action up to and including termination for gross and willful misconduct.**

- A driver is prohibited from performing–and the Town is prohibited from using a driver to perform–safety-sensitive functions upon 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.
- Having a verified positive, adulterated or substituted drug test result.
- Refusal to submit to test (alcohol or controlled substance test). See Appendix A for the definition of "*test refusal*".
- All CDL drivers are prohibited from 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.
- Each covered employee is prohibited from 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. The covered employee will subsequently be relieved of his/her on-call responsibilities.
- No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions, including if they are on the on call "Salting Roster" established by the DPW Superintendent.
- The Town will not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol or has used alcohol within the previous 4 hours or is under the influence of alcohol or an illicit substance. Furthermore, the employee is prohibited from operating a CMV under these circumstances.
- Misuse or impairment by authorized drug use, which may affect work performance or pose a danger to the safety of the driver or others. Drivers are required to inform the employer's designated representative of any therapeutic drug use.
- Each CDL driver is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- Consistent with the Drug-free Workplace Act of 1988, all drivers subject to this policy are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including company premises, vehicles, while in uniform or while on municipal business.

4. Testing

All CDL drivers will be subject to testing in accordance with DOT requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable. All CDL drivers will be placed into a random testing pool, which currently is administered by **Occupational Drug Testing, LLC** (ODT). Contact information is in Appendix B.

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 US 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.

Drug Testing Process

The drugs that will be tested for include: marijuana, cocaine, opiates, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. 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. Current cutoff and testing limits are listed in Appendix D.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (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 confirmed 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 the employee's medical history and/or medical records as appropriate 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's 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 collected specimen is split into 2 specimens at the testing facility). 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. The employee's request for a split specimen test must be made to the Medical Review Officer 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.
- Any covered employee who questions the results of a required drug test performed under this policy and who requests that the split specimen be tested shall be solely responsible for the cost of testing the split specimen via a payroll deduction.
- 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. In any of these instances, the Town and said employee shall split the cost of testing.

- 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 Medical Review Officer. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

Observed Collections

See "*observed collection*" in Appendix A: Definitions. Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur if:

- 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; or
- 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 Town mandates an observed collection of a specimen if the employee drug test is a return-to-duty test or a follow-up test. The collector must immediately conduct a collection under direct observation if:

- Directed by the Town,
- 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.

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 are positive, a confirmatory test will be conducted at least 15 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 integrity of the alcohol testing procedures, and to ensure the validity of the test result. An employee confirmed with an alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of the policy herein. The consequences of a positive alcohol test are described in Section 5, Consequences of a Positive Test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered positive, the employee shall still be removed from duty for at least 24 hours and will be subject to the following:

- Initial counseling by the Town Manager 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 ≤ 0.039% two or more times within a six month period, the employee automatically will be removed from duty and referred to a Substance Abuse Professional (SAP) for assessment and treatment. Said employee may also be subject to disciplinary action and/or termination under the provisions of the Union Contract in effect or via Town personnel policies or an employee contract respective to the position.

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

The Town 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.

Pre-employment Testing

All applicants for covered safety-sensitive positions shall undergo pre-employment urine **drug** testing. Pre- employment **alcohol** testing will NOT typically be performed. All offers of employment for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed **prior** to the individual beginning work. (Note: pre-employment drug testing costs are covered expenses under the Town's VLCT-PACIF program.)

If an applicant fails a pre-employment drug test, the conditional offer of employment is rescinded. Prior to future consideration for employment, the Town must be provided with evidence from a substance abuse professional that meets the requirements of 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test also will be required.

Job applicants exhibiting a negative dilute drug test result may request a retest as outlined in Section 4 Testing.

When an employee is being placed, transferred, or promoted from a non-covered/non-CDL position to a covered (CDL) position and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the Union Contract, in the Town's personnel policies, or that employee's contract, respective to the relevant position. 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, we will require the applicant to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or duties.

Random Testing

All covered employees will be subject to random, unannounced testing. There is no discretion on the part of the Town in the selection and notification of the individual(s) to be tested. The selection

of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of safety-sensitive employees. All Town CDL drivers have been placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Pool operated by Occupational Drug Testing, LLC (ODT).

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

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 be immediately available to collectors when notified that they have been selected for testing.

Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is reasonable suspicion to believe that drug or alcohol use is occurring or has recently occurred. "*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 supervisory individual who has received "*reasonable suspicion training*" in accordance with FMCSA regulations. The training ensures that supervisors 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 shall be responsible for transporting the employee who will be undergoing a reasonable suspicion test to the testing site identified by ODT. 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 may be subject to immediate termination due to insubordination. Failure to submit to a reasonable suspicion test is a prohibited conduct (refusal to test), the consequences of which are outlined in section 5, Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisor making the observation prior to the release of the test results. This written record shall be submitted to the Town Manager. A copy of the written record shall be retained in the employee's personnel file and driver qualification file, as applicable.

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 involves any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must test be performed by the Town?
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

If an alcohol test required by this section is not administered within two hours following the accident, the Town 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 (8) hours following the accident, the Town 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 controlled substances test required by this section is not administered within 32 hours following the accident, the Town 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.

5. Consequences of a Positive Test

Any pre-employment applicants who test positive as defined in Appendix A will be referred to a DOT approved SAP. ODT and/or Invest EAP will be contacted to obtain the name of a qualified SAP. This contact information will be provided to the applicant. Also, any applicant testing positive as defined in Appendix A shall not be eligible for employment according to Pre-Employment Testing in Section 4 above.

Any and all employees who test positive as defined in Appendix A will be referred to a DOT approved SAP. ODT and/or Invest EAP will be contacted to obtain the name of a qualified SAP. This contact information will be provided to the employee. **Said employee will be subject to disciplinary action and possible termination according to the Union Contract, the Town's personnel policies, and any employee contract respective to the employee's position. Subject to the relevant document(s) to a respective employee, the Town's policy on a positive test result is termination of employment.**

Any employee who is permitted to attempt to return to duty is responsible for the costs of treatment from the SAP, as well as the costs of return to duty and follow-up testing.

Return to Duty Testing

All covered employees who previously tested positive on a drug or alcohol test or who refused a test must test negative for drugs, alcohol (below 0.02%), or both and be evaluated and released by the SAP before returning to work. 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. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP should schedule 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. **Return to duty testing MUST be performed under direct observation.**

Follow Up Testing

After passing return to duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months following return to duty. Follow up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. 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.

6. 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.higheredcenter.org/resources/national-clearinghouse-alcohol-and-drug-information-ncadi
http://www.samhsa.gov/;
http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm
http://www.investeap.org/

Adopted by the Fair Haven, VT Selectboard this 17th day of March, 2014.

Christopher Cole, Chair

Bob Richards

Jeff Sheldon, Clerk

David Ward

Rod Holzworth, II

APPENDIX A-Definitions

Accident for the purposes of this policy means an occurrence associated with the operation of a CMV which requires a Commercial Drivers License to operate, 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 contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

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).

Canceled Test is a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

Commerce means any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described above.

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).

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

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.

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, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater.

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;
- 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.

Shy Lung refers to any time a safety-sensitive employee is unable to provide an adequate sample of breath for alcohol testing.

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.

Substituted specimen is a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Test Refusal or refusal to test occurs when an employee:

- 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 a observed collection in a drug test, fails to permit the observation or monitoring of collecting 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 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 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.

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.

Verified positive test means a drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified 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.

APPENDIX B-Contacts & Information

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
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.

APPENDIX C- CDL Drug & Alcohol Testing Policy-Sample Acknowledgement Form

TOWN OF FAIR HAVEN, VERMONT

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CDL 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 US 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.

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

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA[1]	15 ng/mL.
Cocaine metabolites	150 ng/mL	Benzoylecgonine	100 ng/mL.
Opiate metabolites			
Codeine/Morphine[2]	2000 ng/mL	Codeine	2000 ng/mL.
		Morphine	2000 ng/mL.
6–Acetylmorphine	10 ng/mL	6–Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamines[3]			
AMP/MAMP[4]	500 ng/mL	Amphetamine	250 ng/mL.
		Methamphetamine[5]	250 ng/mL.
MDMA[6]	500 ng/mL	MDMA	250 ng/mL.
		MDA[7]	250 ng/mL.
		MDEA[8]	250 ng/mL

[1]Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).
[2]Morphine is the target analyte for codeine/morphine testing.
[3]Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.
[4]Methamphetamine is the target analyte for amphetamine/methamphetamine testing.
[5]To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.
[6]Methylenedioxymethamphetamine (MDMA).
[7]Methylenedioxyamphetamine (MDA).
[8]Methylenedioxyethylamphetamine (MDEA).

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