



TOWN OF HOPKINTON, NEW HAMPSHIRE

DRUG & ALCOHOL POLICY

POLICY NO. 15

I. PURPOSE OF POLICY (DOT employees)

- Compliance with DOT Regulations
- To help prevent accidents and injuries resulting from the misuse of alcohol and other controlled substances by drivers of commercial motor vehicles

POLICY STATEMENT

It is the policy of the town of Hopkinton that, for reasons of public safety and to comply with federal law and regulation, all employees who hold Commercial Drivers Licenses agree to a comprehensive program of drug and alcohol testing. The overall goal of this testing program is to ensure a drug and alcohol-free transportation environment, to reduce the potential for accidents and casualties related to accidents involving DOT vehicles, and to cooperate with the U.S. Department of Transportation and the transportation industry in efforts to eliminate the misuse of alcohol and the illegal use of controlled substances by drivers. Those who test positive in violation of this policy are subject to disciplinary action, up to and including separation of employment.

With these objectives in mind, the following policy and procedures have been established for Town of Hopkinton employees who hold Commercial Drivers Licenses. Full compliance with this policy is a condition of employment with the Town of Hopkinton.

- No employee shall consume drugs or alcohol while on company time or property. This includes unpaid meal and break periods.
- No employee shall possess or be in control of any alcoholic beverage or controlled substance within any company building or vehicle.
- No employee will participate in the unauthorized use, abuse or sale of any controlled substance.
- We do not permit the use or sale of any controlled substance at any time.

II. APPLICABILITY

All employees who hold (CDLs) Commercial Drivers Licenses and drive vehicles in the following categories with the exception of firefighters/paramedics:

- Vehicles with a gross weight rating of 26,001 pounds.

- Vehicles with a gross combined weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of 10,000 pounds.
- Vehicles designed to transport 16 or more passengers.
- Vehicles of any size used to transport materials found to be hazardous and which require the vehicle to be placarded under Hazardous Materials Regulation 49 CFR Part 172, subpart F.

III TESTING

- Although this policy prohibits the use of any controlled substance not lawfully prescribed by a physician, any drug test required under this policy will analyze an individual's urine to test for the presence of the following substances:

DOT: Marijuana
 Opiates
 Cocaine
 Phencyclidine
 Amphetamines

- Alcohol screening tests are performed via breath analysis or saliva testing. A trained Breath Alcohol Technician (BAT) or Saliva Test Technician (STT) using the approved testing device; QED, (Quantitative Enzymes Diagnostics) and will perform these tests.
- A trained BAT will perform confirmation testing on an evidential breath-testing device that is on the National Highway Traffic Safety Administration's Conforming Products List.

IV REASONS FOR TESTING

a. Pre-employment (382.301)

- Prior to the first time an employee performs a safety-sensitive function, he/she will undergo testing for controlled substances and will not be allowed to perform any such function unless a verified negative test result is received from the Medical Review Officer (MRO). If a pre-employment controlled substance test indicates a confirmed positive, the company will rescind the employment offer.

b. Post-accident (382.303)

- Any incident at the discretion of the Designated Employee Representative (DER) and Town Administration.

- As soon as practicable following an occurrence involving a Commercial Motor Vehicle (CMV) operating on a public road in commerce, the Company Employer shall test for alcohol and controlled substances each employee who:
 - a. Performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - b. Receives a citation under State or local law for a moving violation arising from the accident if the accident involved:
 1. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
 2. One or more vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.
- Per DOT regulations, drivers are prohibited from using alcohol for eight hours following any accident or until the required post-accident alcohol test is administered, whichever occurs first. Testing will be performed as soon as possible, but not more than eight (8) hours after the accident for alcohol and within thirty-two (32) hours for controlled substances.
- All eligible employees will immediately contact a supervisor/employer for instructions. The employee will not drive to the testing facility. Either, the testing collector will travel to the accident, if applicable, or the employee will be brought to the testing facility.

c. Random Testing (382.305)

- All drivers subject to the Federal Motor Carrier Safety Regulations as outlined under APPLICABILITY section of this policy shall be required to submit to alcohol and substance abuse testing in a random program. The program shall be outlined as:
 - The substance abuse testing program will be managed by Onsite Drug Testing of New England. ODTNE will perform all aspects of program management including, but not limited to, random selection, blind samples, quarterly statistic reports, scheduling and/or collecting samples.
 - Drug screen collections and alcohol tests will be performed at the Town of Hopkinton, a worksite of the Town of Hopkinton that has the proper accommodations, a collection site or at Onsite Drug Testing of New England, LLC, Concord N.H.
 - Per the DOT regulations, random selection and subsequent testing will be performed at an annual percentage rate of 50% of eligible driver positions for controlled substances and 10% for alcohol. These tests will spread throughout the year and shall be performed with little or no notice to the employees. When

the driver is notified of the need to be tested, he/she shall be immediately ready or proceed directly to the collection site and submit to the required testing. The testing rates are eligible to change at the beginning of each year, per the Federal Motor Carrier Safety Regulations.

d. Reasonable Suspicion (382.307)

- Per the DOT regulations 382.307d., reasonable suspicion alcohol testing shall only be required before, during or after the driver is performing a safety-sensitive function.

- Per the DOT regulation 382.307, whenever the Company has reasonable suspicion to believe that an employee has violated any alcohol or controlled substance prohibition contained in this policy, it will require that employee to

submit to an alcohol and/ or controlled substance test. Any suspicion shall be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic effects of controlled substances. These observations will only be made by a supervisor or company official who has received appropriate training and will be documented by that individual in a Supervisor's Report of Reasonable Suspicion within twenty-four (24) hours after his/ her observation. Whenever possible, two (2) DERs shall concur with regards to the observations about the reasonable suspicion.

- All testing shall be conducted as soon as possible after the determination to test has been made. If the employee needs to be transported to the collection site, it will be by a supervisor and the employee will not be allowed to perform any safety sensitive function or drive any company vehicle until negative results are confirmed. Appropriate measures will be taken to transport the employee home after the test has been taken to ensure the safety of the employee and the general public. Such measures may include but are not limited to calling a family member, calling a taxi or driving him/ her home.

e. Return to Duty Testing (382.309)

- FMCSR Part 382.309 says each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B of this part concerning alcohol, the driver shall undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 units.

and

- Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B of this part concerning controlled substances, the driver shall undergo a return to duty controlled substance test with a result indicating a verified negative result for controlled substance use.

f. Follow-up Testing (382.311)

- Following a determination under Part 40.289a., that a driver is in need of assistance in resolving problems associated with alcohol misuse or use of controlled substances, each employer shall ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a Substance Abuse Professional (SAP) in accordance with the provision of Part 40.289b. Follow-up testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.
- Employee is responsible for any costs accrued by testing positive.
- Employee will stay employed by the Town of Hopkinton, not in a Safety-Sensitive function from the time of a confirmed positive screen through the time of a confirmed negative screen.
- Following a second confirmed positive drug and/or alcohol screen, the employee will be terminated.

g. Refusal to Submit: (382.211)

- Any employee who refuses to submit to any required test under any circumstance shall be prohibited from performing any safety-sensitive function and shall be subject to discipline as outlined in CONSEQUENCES OF POSITIVE TEST RESULTS.
- Refusal to submit (Definitions 382.107) shall be determined by any of the following circumstances, but are not limited to:
 - Failing to provide adequate breath, saliva or urine for testing without a valid medical explanation after the employee has received notice of a required test as well as refusal to submit to a medical evaluation as required by Subpart 40.193d. (In the case of a Pre-Employment drug test, the employee is deemed to have refused to test on this basis only if the Pre-Employment test is conducted following a contingent offer of employment.)
 - Engaging in conduct that disrupts the collection process.
 - Engaging in any conduct that creates reason to believe that a urine specimen has been altered, substituted or adulterated for the purpose of affecting the validity or accuracy of a controlled substance test result. This includes refusing to submit to an observed or monitored collection.
 - Failure to appear for any test, except Pre-Employment within a reasonable time as determined by Onsite Drug Testing of New England, LLC after being directed by the employer.
 - Failure to remain at the testing site, until the testing procedures are completed.
 - Failure to submit to a second test that the Employer or Collector has directed the driver to take.

- A result reported by the MRO as being a verified, adulterated or substituted test.

V ALCOHOL & DRUG TESTING PROCEDURES (Part 40, 382 and 383)

- All procedures for drug and alcohol collection and testing shall be performed in accordance with FMCSR Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382 (Controlled Substance and Alcohol Use and Testing) and 383 (Commercial Drivers License Standards; Requirements and Penalties).
- Each employee must present a photo ID directly prior to submitting to a drug or alcohol test.
- All specimens will be collected at locations that afford privacy for the employee. Providing a urine sample will not be directly observed or monitored unless the employee's conduct indicates an attempt to tamper with or adulterate the specimen.
- Urine samples will be tested for drugs at laboratories certified by the US Dept. of Health and Human Services (DHHS).

VI TESTING RESULTS (Subpart D, 382.401)

- All controlled substance and alcohol test results will be reported and maintained in a confidential manner and only shared with those who have a bonafide need to know, the DER, Onsite Drug Testing of New England, LLC and Department Of Transportation Agents.
- The first negative-dilute specimen is considered a confirmed negative and no further action is needed.
- The second negative-dilute specimen given by the same employee is not considered a confirmed negative and the donor must:
 - a. Submit to an observed second collection, of which the donor must pay for if the result is confirmed positive.
- A negative drug or alcohol test result is indicative of having passed the test. No further action needs to be taken.
- A positive result is defined as a confirmation alcohol test of greater than or equal to 0.04 units and a drug test determined and reported as positive by the MRO.
- No driver shall report or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 units or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.02 units or greater shall permit the driver to perform or continue to perform safety-sensitive functions.
- All drug test results, positive or negative, will be reviewed by a MRO prior to being reported to the employer. In the case of a positive test result, the MRO will contact the employee and discuss the results prior to reporting them to employer. If the

employee can show a legitimate medical reason for testing positive, the MRO will report the result as negative to the employer.

- A positive controlled substance result means that the employee has failed the test and needs to be removed from safety-sensitive functions immediately. At this time, the employee may opt to have the split drug test sample sent for re-test. If the split result is other than positive for the same substance, the test is canceled and the employee may return to his safety-sensitive function. (The employee must pay in advance for the cost of having the sample re-tested and if the test is confirmed negative, the employee will be reimbursed).

VII. CONSEQUENCES OF POSITIVE TEST RESULTS (Part 40, Subpart 0)

- The consequences under this part for drivers found to have an alcohol concentration of 0.02 units or greater, but less than 0.04 units is suspension of safety-sensitive functions for 24-hours. (This time off is not paid)
- The DOT requires that anyone who refuses to test be treated as though the test was positive and all consequences for a positive test apply.
- A driver who has a verified positive test will be provided information by the employer on where to go to get guidance regarding substance abuse.
- Consequences for the first verified positive result will be:
 - a. Immediate suspension from safety-sensitive functions.
 - b. Meet with a SAP for evaluation and referral.
 - c. Follow the SAP's referral including but not limited to a Substance Abuse Class.
 - d. Submit to a return-to-duty test (drug and/or alcohol) of which the results are negative.
 - e. Submit to a minimum of 6 follow-up tests maintained by the SAP and DER within the first year following the evaluation. (follow-up tests are in addition to being selected for random testing and are paid by the employee)
 - f. Upon completion of the SAP referral program (302.605 and Part 40, Subpart 0), the Employer will allow the employee to return-to-duty.
- Consequences for the second verified positive result will be termination.

VIII GENERAL REQUIREMENTS

- All drivers must read, understand and sign the Alcohol and Drug Testing, Driver Awareness and Training Handbook to meet requirement 382.601.
- The receipt with signature, will be kept in the driver qualification file or personnel file.
- All drivers are required under Part 382.601b.11 to report any other driver's, co-driver's behavior showing any signs and symptoms of an alcohol or controlled substance problem to their immediate supervisor.

- The Town of Hopkinton shall insure that each employee and driver sign a statement certifying that he/she has received a copy of the materials described in 382.601d. (Alcohol Misuse and Controlled Substances Use, Training and Referral).

- a. If a prospective employee refuses to acknowledge receipt of a copy of the materials listed above, the employee will not be hired.

References; Federal Motor Carrier Safety Regulations Handbook

Policy written by Onsite Drug Testing of New England, LLC

By signing and dating this policy, you are agreeing that you have read and understand this policy.

The Designated Employer Representative is: _____

Kimberly Reid, President:

Date:

Town of Hopkinton Representative:

Date:

Signature: _____

Print Name: _____

Employee:

Date:

Signature: _____

Print Name: _____

This Policy supersedes all other applicable policies issued by the Town of Hopkinton relative to the regulation of drug and alcohol (DOT employees), and shall take effect upon its adoption by the Board of Selectmen.

Adopted by the Board of Selectmen on this date, the 28th day of April 2008

Scott Flood, Chairman

George Langwasser, Selectman

Tom Congoran, Selectman

Christopher Lawless, Selectman

James O'Brien, Selectman