TOWN OF NEW LEBANON

COMMERCIAL DRIVER'S LICENSE

("CDL")

DRUG AND ALCOHOL TESTING PLAN

AND

POLICY

Effective Date: September 14, 2021 (Rev 4.12.22)

This Drug and Alcohol Testing Plan is issued pursuant to the Omnibus Transportation Employee Testing Act of 1991 and the regulations issued thereunder.

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INTRODUCTION

The Omnibus Transportation Employee Testing Act of 1991 (the Act) was signed into law in October 1991. The Act required the Federal Department of Transportation to develop regulations to implement drug and alcohol testing of employees performing safety-sensitive functions in the aviation; highway, rail and transit industries. The pertinent regulations are:

- Title 49 Code of Federal Regulations part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

- Title 49 Code of Federal Regulations Part 382 - Controlled Substances and Alcohol Use and Testing.

The purpose of the Act and the regulations implementing the Act are to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. The regulations require drug and alcohol testing of employees who maintain a commercial driver's license (CDL) and operate what are defined as commercial motor vehicles.

Testing will be required under the following work related conditions: (1) pre-employment, (2) on a random basis, (3) upon reasonable suspicion, (4) in post-accident situations, (5) upon a return to duty after having tested positive, and (6) on a follow-up basis. The regulations require testing for alcohol using an evidential breath testing device and urine testing for five illegal substances which include marijuana, cocaine, amphetamines (methamphetamines), opiates, and phencyclidine (PCP).

The procedures outlined in this manual as amended will become effective September 11, 2020.

THE PURPOSE OF THIS PLAN

The purpose of the Drug and Alcohol Testing Plan (this Plan) is to explain and educate the workforce with regard to the requirements of the law and the procedures necessary to meet these requirements. This Plan is prepared in compliance with and based upon the mandatory requirements of the Act and regulations promulgated thereunder. The regulations discussed above contain a more detailed explanation of the law's requirements and will be the governing instrument under which this Plan is administered.

Failure to comply with the Act, the regulations, or this Plan may result in disciplinary action up to and including discharge.

DEFINITIONS

Appendix A contains a list of selected definitions taken from the regulations which apply to the administration of this Plan.

PROHIBITED DRUG AND ALCOHOL RELATED CONDUCT

No employee shall use, sell, possess, distribute, manufacture, or be under the influence of any

alcoholic beverage or illegal drug or any other intoxicating substance at any time on a job site or on employer property; or while in an employer vehicle, a vehicle leased for employer business, or a privately owned vehicle being used for employer business during the-employee's work hours.

No employee shall use illegal drugs or report to work at the beginning of a shift or upon returning from any break, lunch or rest period under the influence of alcohol, illegal drugs or other intoxicating substance.

No employee shall possess alcohol during working hours unless the alcohol is manifested and transported as part of a shipment, perform safety sensitive functions within four (4) hours after using alcohol, or use alcohol for eight (8) hours following an accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

While prescription drugs generally are not prohibited by the Act, they should not render an employee unfit for duty. Situations of this nature shall be brought to the Highway Superintendent's attention by the employee, especially if the employee's job responsibilities have an impact on the health and safety of others. An employee is obligated to discuss with his/her health care provider and/or pharmacist the potential impairment of prescribed drugs. These situations should be addressed confidentially on a case-by-case basis and it may be necessary for the employee's health care provider to certify that the substance does not adversely affect the employee's fitness for duty. Failure of the employee to notify the Highway Superintendent of the use of prescription drugs which impair the ability of the employee to perform his duties may result in discipline.

See further discussion at "Prohibited Conduct," p.3.

THE PERSONNEL DESIGNATED TO ANSWER QUESTIONS ABOUT DRUG AND ALCOHOL TESTING

Each covered employee will receive a copy of this Plan prior to the start of alcohol and controlled substance testing. Representatives of the employee organization representing the employees will also receive copies of this Plan.

Appendix B specifies the names, addresses and phone numbers of the individuals designated to answer any questions an employee may have regarding this Plan and the individuals or organizations charged with administering the Plan. Employees can also obtain information on the Plan from supervisors and other employer representatives or from the employees union.

EMPLOYEES SUBJECT TO DRUG AND ALCOHOL TESTING REQUIREMENTS

Any employee who has a CDL for the performance of their duties is subject to testing under this Plan.

The testing requirements apply whenever an employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions *as* defined by the regulations (see Appendix A).

PROHIBITED CONDUCT

Alcohol Possession. No employee shall be on duty or operate a commercial motor vehicle while the employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.

On-Duty Use. No employee shall use alcohol while performing safety-sensitive functions.

Pre-Duty Use. No employee shall perform safety-sensitive functions within four hours after using alcohol.

Use Following an Accident. No employee involved in an accident shall use alcohol for eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.

Controlled Substances. No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial motor vehicle.

Controlled Substance Testing. No employee shall report for duty, remain on duty or perform a safety-sensitive function, if the employee tests positive for controlled substances.

Employer's Duty. If the employer suspects or has actual knowledge that an employee is not in compliance with one of the prohibitions listed above, the employer is required to remove the employee from the performance of safety-sensitive functions.

THE CIRCUMSTANCES UNDER WHICH AN EMPLOYEE WILL BE TESTED

Pre-Employment Testing. Prior to the first time an employee performs safety-sensitive functions for an employer, the employee shall undergo testing for controlled substances. The employer will not allow an employee to perform safety sensitive functions unless the employee has been administered, and has received a controlled substance test result indicating a verified negative test result.

Post-Accident Testing. As soon as practicable following an Accident involving a commercial motor vehicle, the employee involved in the accident shall be tested for alcohol and controlled substances.

However, as set forth above, no employee required to take a post-accident test shall use alcohol for eight (8) hours following the accident or until he or she undergoes post-accident testing, whichever occurs first.

Random Testing. Employees will be tested for both alcohol and controlled substances on a random basis. The minimum annual percentage rate for a random alcohol testing shall be 25% of the average number of covered positions. The minimum annual percentage rate for random controlled substance testing shall be 50% of the average number of covered positions.

The primary purposes of random testing are to deter prohibited drug and alcohol use and to ensure a drug-free and alcohol-free workforce. The regulations require that covered employees shall be subject to drug and alcohol testing on an unannounced and random basis. The employer shall conduct a number of drug tests

on all covered employees equal to at least 50% of the average number of covered employees each calendar year, spread reasonably over a 12-month period. In addition, the employer shall conduct a number of alcohol tests on covered employees equal to at least 25% of the number of covered employees each calendar year, spread reasonably over a 12-month period.

The following is an outline of the key aspects of the random testing selection process:

(1) Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.

(2) Employees shall be selected for testing by using a computer-based random number generator or equivalent random selection method that is matched with an employee's social security number.

(3) The process will be unannounced, as well as random. Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.

(4) Employees will be selected for random testing based on the number of covered employees at the time and the necessary testing rate.

(5) Specimen collection will be conducted on different days of the week throughout the annual cycle.

Steps for random testing:

(1) The employer, on a pre-determined date, shall use the random selection procedures to compile a list of covered employees selected for random testing during that testing cycle.

(2) The employer will notify employees of their selection for random testing after they have reported for duty.

(3) The names of the employees to be tested will be provided to the Highway Superintendent or their designee.

(4) The list of employees selected will be retained by the employer in a secure location.

(5) Employees shall report immediately to the collection site, once notified by the appropriate employer representative.

(6) Upon arriving at the designated collection site, the employee will be required to identify himself/herself to the site personnel by presenting a picture identification (i.e., employer photo identification card or driver's license). Otherwise, the employee's Highway Superintendent shall identify the employee.

(7) The employee will provide his/her urine specimen or breath sample, in accordance with the procedures of the collection site.

Reasonable Suspicion Testing. The employer shall require an employee to submit to an alcohol or drug test when the employer has reasonable suspicion to believe that the employee has violated the prohibitions of the regulations concerning alcohol or drugs. The employer's determination that reasonable

suspicion exists to require an employee to undergo a test will be based on specific, contemporaneous, articulable observations concerning the performance, appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Returned-To-Duty Testing. The employer shall ensure that before an employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by the regulations concerning alcohol, the employee shall undergo a return-to-duty alcohol test with the result indicating an alcohol concentration of less than 0.02. The employer shall ensure that before an employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by the regulations concerning controlled substances, the employee shall undergo a return-to-duty controlled substance test with a result indicating a verified negative result for controlled substances use.

Follow-Up Testing. Following a determination by a Substance Abuse Professional that an employee is in need of assistance in resolving problems associated with the use of controlled substances, the employer shall ensure that the employee is subject to unannounced follow-up alcohol and/or controlled substance testing as directed by a Substance Abuse Professional. The testing will consist of at least six (6) follow-up tests in the first twelve months following the employee's return-to-duty.

General Safety Considerations.

Any time an employee tests positive for alcohol, the employer will arrange to transport the employee from the collection site to the employee's home.

Any time an employee is drug tested under the reasonable suspicion or post-accident section of this Plan, the employee shall not perform any safety-sensitive duties pending the receipt of the drug test results.

An employee who refuses to take or fails a drug or alcohol test may not return to duty until the employee passes a drug test and alcohol test, if applicable, and the employer has determined that the employee may return to duty.

THE PROCEDURES THAT WILL BE USED TO TEST FOR THE PRESENCE OF ALCOHOL AND CONTROLLED SUBSTANCES

Drug Testing.

Preparation for Testing. The employer and a certified laboratory will maintain a clear and well-documented procedure for the collection, shipment, and accessing of urine specimens as detailed and required by the regulations. When an employee enters the testing ideation, the testing procedures will be fully explained to the employee. The procedures include the following:

1. the use of a drug testing custody and. control form;

2. the use of clean, single-use specimen bottles that are securely wrapped until filled with the specimen and the use of a procedure in which the urine specimen is split and poured into two specimen bottles to provide the employee with the option of retesting the split sample;

3. the use of a tamper proof sealing system, designed in a manner to ensure against undetected opening;

4. the use of a shipping container in which the specimen and associated paperwork may be transferred and which can be sealed and initialed to prevent undetected tampering;

5. the use of written procedures, instructions, and training that will ensure that collection site personnel have the ability to administer the collection procedures in accordance with the requirements of the regulations.

Designation of Collection Site. The employer will identify a designated collection site which has all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory.

Security. The designated collection site will be secured to ensure that other persons are not present during the collection process. The specimen shall remain under the direct control of collection site personnel from delivery to its being sealed in the mailer. The mailer shall be immediately mailed, maintained in secure storage, or remain until mailed under the control of collection site personnel.

Chain of Custody. A chain of custody and control form shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling or transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Since specimens and documentation are sealed in shipping container that would indicate any tampering during transit to the laboratory, and couriers, express carriers and postal service personnel do not have access to the chain of custody forms, there is no requirement that such personnel document chain of custody for the shipping container during transit.

Access to Authorized Personnel Only. No unauthorized personnel shall be permitted in any part of the designated collection site where urine specimens are collected or stored. Only collection site personnel may handle specimens prior to their securement in the mailing container or monitor or observe specimen collection.

Privacy. Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided.

Integrity and Identity of Specimen. The employer shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine bottle and on the urine custody and control form can identify the individual from whom the specimen was collected.

Failure to Cooperate. If the employee refuses to cooperate with the collection process, collection site personnel shall inform the employer and shall document the noncooperation on the drug testing custody and control form. Any failure to cooperate may subject the employee to disciplinary action up to and including termination.

Employee Requiring Medical Attention. If the sample being collected is from an employee in

need of medical attention (e.g., as part of a post-accident test given in an emergency medical facility), necessary medical attention shall not be delayed in order to collect the specimen.

Laboratory Personnel and Analysis Procedures. The laboratory used to analyze specimens shall meet the requirements of the regulations and utilize procedures that conform with the regulations. The laboratory used for analysis must be certified by the Substance Abuse Mental Health Services Administration.

Quality Assurance and Quality Control. Drug testing laboratories shall have a quality assurance program which encompasses all aspects of the testing process including but not limited to specimen acquisition, chain of custody security and reporting of results, initial and confirmatory testing and validation of analytical procedures. Quality assurance procedures shall be designated, implemented and reviewed to monitor the conduct of each step of the process of testing. All specimens identified as positive on the initial test shall be confirmed using an additional testing procedure.

Reporting and Review of Results by MRO. Positive test results will be reported directly to a designated Medical Review Officer (MRO) prior to the transmission of the results to the employer's administrative officials. The MRO shall review the integrity of test results and contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test results. If no legitimate explanation for the positive test is found, the MRO will report the positive test result to the employer.

Retesting of Samples. An employee or applicant for employment may request in writing to the MRO a retest of the sample, provided such request is made within 72 hours of the individual having been informed of a verified positive test from the MRO. An employee requesting a retest shall advance the cost of the retest, which shall be reimbursed by the employer if the retest is negative.

Protection of Employee Records. The employer's contract with the laboratories conducting the drug tests requires that the laboratory maintain employee test records in confidence, as provided in the regulations.

Alcohol Testing.

The Breath Alcohol Technician. The breath alcohol technician (BAT) that conducts alcohol testing shall be trained to proficiency in the operation of the evidential breath testing (EBT) device. The EBTs shall conform with the requirements of the regulations.

Locations for Breath Alcohol Testing. The employer shall conduct alcohol testing in the location that affords visual and aural privacy to the individual being tested, sufficient to prevent unauthorized persons from seeing or hearing test results. All necessary equipment, personnel, and materials for breath testing will be provided at the location where testing is conducted.

Preparation for Breath Alcohol Testing. When an employee enters the alcohol testing location, the BAT will require him or her to provide positive identification. The testing procedures will be fully explained to the employee. If the results of the screening test indicate an alcohol concentration of 0.02 or greater, a confirmation test will be performed.

Refusals to Test and Uncompleted Tests. Refusal by an employee to complete and sign the

breath alcohol testing form to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be reported immediately to the employer.

Protection of Employee Records. The employer will maintain records in a secure manner in accordance with the regulations.

THE CONSEQUENCES OF FAILING OR REFUSING TO TAKE A DRUG OR ALCOHOL TEST

Policy. Compliance with the regulations and this Plan is a condition of employment. Refusal to take a required test or failure of a drug or alcohol test shall result in disciplinary action up to and including termination. Any disciplinary action taken shall be in compliance with the Collective Bargaining Agreement, or any other applicable statutory due process requirements.

I. Positive Test of a Controlled Substance

a. First Offense

Positive Test of a Controlled Substance. Any employee regardless of a first or second offense having a positive test result for controlled substances will be removed from duty immediately and will be referred to a SAP. A return to duty will be determined by the SAP. Such employee shall be entitled to use sick, compensatory, vacation leave or a combination otherwise, the employee is on unpaid status.

The employee shall not be returned to work until the SAP authorizes such return.

Failure to participate in the SAP recommended program will result in disciplinary action up to and including termination in accordance with the Collective Bargaining Agreement.

In addition to the aforementioned, an employee found to have tested positive, upon return to duty after authorized by the SAP, shall serve a (10) day unpaid suspension, or at the employee's discretion may forfeit ten (10) days of vacation from their vacation accrual balance to satisfy such suspension.

Notwithstanding the aforementioned, in the event that an employee tests positive for a controlled substance as a result of an Accident, the employer reserves the right to opt to pursue any and all disciplinary actions greater than the ten (10) day suspension in accordance with the Collective Bargaining Agreement, up to and including termination, which will be commensurate with the circumstances of the Accident and in consideration of such factors as property damage, personal injury and/or causing serious injury or death to others.

b. Second Offense

Upon a second offense of a positive test result for controlled substances, the employee shall be removed from duty immediately and subject to termination from employment in accordance with the Collective Bargaining Agreement. .

II. Positive Test of Alcohol Concentration of .02 but less than .04

a. First Offense

Positive test of alcohol concentration of .02 but less than .04. Any employee having a test result of an alcohol concentration of .02 but less than .04 will be immediately removed from duty for a period of 24 consecutive hours. Such employee shall be entitled to use sick or vacation leave, otherwise, the employee is on unpaid status. The employee shall receive a letter of reprimand, and shall receive a letter from the Highway Superintendent or their designee recommending that he/she obtain assistance through the SAP.

b. Second Offense

After the second offense, the employee will be immediately removed from duty for a period of 24 consecutive hours, and will be unpaid unless the employee uses his/her sick or vacation accruals. The employee will be mandatorily referred to the SAP by the Highway Superintendent or their designee. The substance abuse professional will determine if/when the employee is fit to return to work.

c. Third Offense

After the third offense, the employee shall be immediately removed from duty for a period of 24 consecutive hours, and will be on unpaid status unless the employee uses his/ her sick or vacation accruals. The employee shall be subject to discipline up to and including termination in accordance with the Collective Bargaining Agreement.

III. Positive Test of Alcohol Concentration of .04 and Greater

a. First Offense

Positive test of alcohol concentration of .04 and greater. Any employee having a test result of an alcohol concentration of .04 or greater will be removed from duty immediately and referred to a SAP. The SAP will evaluate the employee and determine whether the

employee is fit to return to duty. Such employee shall be entitled to use sick, compensatory time, vacation leave accruals or a combination, otherwise, the employee is on unpaid status until the SAP determines the employee is fit for duty.

In addition to the aforementioned, any employee with a test result of an alcohol concentration of greater than .04 shall be subject to discipline up to a five (5) day suspension or forfeiture of five (5) vacation days or five (5) days of compensatory time or a combination.

Notwithstanding the aforementioned, in the event that an employee has a test result of an alcohol concentration greater than .04 and such test is a result of an Accident, Employer reserves the right to opt to pursue any and all disciplinary actions greater than the ten (10) day suspension in accordance with the Collective Bargaining Agreement, up to and including termination which will be commensurate with the circumstances of the Accident and in consideration of such factors as property damage, personal injury or causing serious injury or death to others.

Failure to participate in the SAP recommended program shall result in disciplinary action including termination from employment, in accordance with the Collective Bargaining Agreement.

b. Second Offense

Upon a second offense of a test result of an alcohol concentration of .04 or greater the employee shall be removed from duty immediately, and subject to discipline, up to and including termination in accordance with the Collective Bargaining Agreement

Any work-related accident or injury involving town vehicles; equipment and/or property where it can be demonstrated that the use of alcohol, drugs, or other intoxicants may have been a contributing factor, will result in formal discipline which can include penalties up to and including termination of employment, in accordance with the Collective Bargaining Agreement.

Any employee shall notify his/her Supervisor/Department Head of any drug statute conviction which results from a violation occurring in the workplace no later than five (5) days after the date of such conviction. Failure of the employee to notify the Supervisor or Department Head may result in discipline including termination.

Removal From Safety-Sensitive Functions. No driver shall perform safety-sensitive functions if the driver has engaged in conduct prohibited by the regulations or this Plan. An employee who. is found to have an alcohol concentration of 0.02 .but less than 0.04 shall not be allowed to perform safety-sensitive functions until at least the 24 hours from the test and may be subject to disciplinary action up to and including termination after a third offense.

CONDITIONS OF RETURN TO DUTY

An employee who tests positive for drugs or alcohol shall be evaluated by a Substance Abuse Professional to determine whether the employee needs assistance or whether the employee has properly followed any rehabilitation program previously prescribed by the Substance Abuse Professional, and shall be subject to unannounced follow-up alcohol and drug tests administered by the employer six times within one year following the employee's return to duty. The cost of the follow-up tests shall be split between the employer and the employee (3 tests to be paid by employer/3 tests to be paid by employee). Any additional follow-up tests recommended by the SAP beyond the aforementioned shall be split equally between employer and employee (i.e., two by employer and two by employee).

Before an employee returns to duty requiring the performance of safety--sensitive functions after engaging in conduct prohibited by this Plan, the employee shall undergo a return to duty drug and/or alcohol test with the result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol or a drug test with a verified negative result if the conduct involved drug use. The cost of the return to duty test shall be borne by the employer.

The cost of rehabilitation and split sample tests are the responsibility of the employee if such costs are not covered by the Town health insurance plans, subject to the provisions contained on page 8, "Retesting of Samples". The cost of reasonable suspicion testing, random testing, post-accident testing, pre-employment testing, the initial evaluation after a positive test, and return to duty tests are the responsibility of the employer.

EMPLOYEE ASSISTANCE PROGRAM

The employer provides an employee assistance program (EAP) for its employees. The EAP provides confidential counseling for many different areas of concern to employees including drug and alcohol problems. The name and number of the EAP representative is listed in Appendix B.

SUPERVISOR TRAINING

Supervisory personnel responsible for the employees covered under this plan will receive training as part of this Plan. Training shall include information on the specific, contemporaneous, physical, behavioral, and performance indicators of probable drug and alcohol use. This training shall be for supervisors who may have to determine whether an employee should be tested for reasonable cause. Part 382, subpart F, Section 382603(a).

ADDITIONAL INFORMATION ON THE EFFECTS OF DRUGS AND ALCOHOL

Employees will receive periodic educational information concerning the effects of alcohol and controlled substances on an individual's health work and personal life; signs and symptoms of an alcohol or controlled substance problem; and available methods of intervening when an alcohol or controlled substance problem is suspected. Additional information is available through the employer representative's designated in Appendix B and through union representatives.

CERTIFICATE OF RECEIPT

Certificate of Receipt. Each employee is required to sign a statement certifying that he or she has received a copy of this plan. A Certificate of Receipt is attached as Appendix C.

APPENDIX A

DEFINITIONS

For purposes of this Plan; the following definitions apply:

1. Accident: An occurrence involving a Commercial Motor Vehicle operating on a public road which results in:

    a. a fatality; or

    b. bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident and the CDL Operator is cited for a moving violation; or

    c. one or more motor 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; or

    d. the CDL Operator being cited for a moving violation as a result of the occurrence.

2. Alcohol use: means the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

3. Breath Alcohol Technician (BAT): an individual who instructs and assist individuals in the alcohol testing process and operates an EBT.

4. Chain of Custody: procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

5. Collection Site: a designated location where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs or providing a sample of their breath to be analyzed for the presence of alcohol.

6. Collection Site Person: a person who instructs and assists applicants and employees through the specimen collection process.

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

a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

b. Has a gross vehicle weight rating of 26,001 or more pounds; or

c. Is designed to transport 16 or more passengers, including the driver; or

d. 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).

8. Confirmation Test: For alcohol testing means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. For controlled substances, confirmation testing means a second analytical procedure to identify the presence of a specific drug or metabolite, which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

9. Covered Employee (Employee): Every employee who operates a commercial motor vehicle in interstate or intrastate commerce and is subject to having a CDL.

10. Cut-Off Levels: the minimum value established: for designating a test result as positive.

11. Driver: means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term "driver" includes a person applying to an employer to drive a commercial motor vehicle.

12. Drugs (Prohibited): marijuana, cocaine, amphetamines (methamphetamines), phencyclidine and/or opiates.

13. EAP: Employee Assistance. Program which provides all employees with a means of obtaining confidential professional assistance in handling personal problems which may adversely affect job performance.

14. Evidential Breath Testing Device (EBT): an EBT approved by the National Highway Traffic Safety Administration (NHTA) for the evidential testing of breath and place on NHTA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

15. Fail a Drug Test or Test Positive: the continuation test result shows positive evidence of the presence under DOT procedures of a prohibited drug in the employee's or applicant's system.

16. Medical Review Officer (MRO): a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of the 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 biomedical information.

17. Pass a Drug Test or Test Negative: that initial testing or confirmation testing under DOT procedures does not show evidence of the presence of prohibited drug in the employee's or applicant's system.

18. Performing (a safety-sensitive function): means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

19. Refuse to submit (to an alcohol or controlled substances test: means that a driver

    a. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part,

    b. fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part, or

    c. engages in conduct that clearly obstructs the testing process.

20. Safety-sensitive function:

    a. All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.

    b. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSR's), or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.

    c. All time spent at the driving controls of a commercial motor vehicle.

    d. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).

    e. All time loading or unloading a Commercial motor 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,

    f. All time spent performing the driver requirements associated with an accident.

    g. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

21. Screening test (also known as initial test): In alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

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

APPENDIX B

PERSONNEL AND ORGANIZATIONS ADMINISTERING THE PLAN

1. Drug/Alcohol Program Manager (DAPM)

   See Highway Superintendent

2. Partners in Safety Contractor
   Partners & Safety
   Nancy Wander
   Compliance Specialist
   nancy@partnersinsafety.com
   (845)-341-0515ext.306

3. Employee Assistance Program (EAP)

   (phone #)See Highway Superintendent

   (contact)

4. Substance Abuse Professional (SAP)

   (See Highway Superintendent for the most updated list available)

Additional information on assistance programs is available from the Town Highway Department.

APPENDIX C

CERTIFICATE OF RECEIPT

Personnel Office

I acknowledge receipt of the Drug and Alcohol Testing Plan (dated _____).

_____

Employee Name (Print)

_____

Employee Signature (Date)

THIS DOCUMENT SHALL BE RETAINED IN THE EMPLOYEE'S PERSONNEL FILE.