



TOWN OF TRURO

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Policy Memorandum #22, Revised

Date: October 27, 1998; Revised December 5, 2017; Revised September 13, 2022

*This policy was revised at the September 13, 2022 Select Board meeting solely to reflect the titles used in the Town Charter for the Town Manager and Select Board and to modify language to be gender neutral. No changes were made to the content of the Policy at that meeting.

Subject: **DRUG AND ALCOHOL TESTING POLICY FOR EMPLOYEES IN POSITIONS REQUIRING A COMMERCIAL DRIVER'S LICENSE (CDL) AND WHICH ARE SUBJECT TO REGULATION BY THE U.S. DEPARTMENT OF TRANSPORTATION**

I. Policy

It is the policy of the Town of Truro: to ensure that its employees are provided a safe and healthful work place for the conduct of Town business and that they are not impaired by alcohol ("alcohol") and drugs, controlled substances and other mind-altering substances (hereinafter referred to separately and jointly as "controlled substances"); to prohibit the use, sale, manufacture, distribution, purchase or possession of alcohol and/or controlled substances by a driver while on Town property or in the performance of Town-related job tasks or while operating Town-owned (or leased) vehicles. The purpose of the Department of Transportation regulations and the Town's policy and program is to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by our drivers. In keeping with this policy, employees are required to report to work fit for duty and to refrain from activities during the work day which would impair their abilities to perform their duties.

This policy provides for drug testing for five controlled substances (marijuana, cocaine, opiates, amphetamines, including methamphetamines, and phencyclidine (PCP)), as well as breath testing for alcohol. This policy is promulgated under the independent authority of the Town of Truro and complies with the Department of Transportation regulations concerning drug and alcohol testing of those commercial driver's license (CDL) employees required to be tested under the applicable Federal regulations.

The Town recognizes its obligation to abide by any applicable requirements under state and federal laws prohibiting discrimination against the handicapped. Employees are expected to seek assistance before their dependency renders them unable to perform the

essential job functions and/or jeopardizes their health and safety and the health and safety of co-workers and others.

All drivers are hereby advised that full compliance with this Policy is a condition of employment.

II. Definitions

- A. Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low methyl and isopropyl alcohol.
- B. Alcohol Use means the consumption of any beverage, mixture or any preparation, including any medication, containing alcohol.
- C. Alcohol Concentration, also called **Alcohol Content**, means the alcohol in a volume of breath (expressed as grams of alcohol per 210 liters of breath) as indicated by an evidential breath test, such as a breathalyzer.
- D. Breath Alcohol Technician means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing (EBT) device.
- E. Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle -
 - 1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a GVW rating of more than 10,000 pounds; or
 - 2. Has a gross vehicle weight rating of 26,001 or more pounds; or
 - 3. Is designed to transport 16 or more passengers, including the driver.
- F. Confirmation Test
 - 1. In **alcohol testing**, means a second test, following a screening test with result of 0.02 or greater that provides quantitative measurement of alcohol concentration.
 - 2. In **drug testing**, means a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy, this test is separate from, and uses a different technique and chemical principle from, that of the alcohol screening test.
- G. Controlled Substances In this policy, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless otherwise provided, these terms refer to:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines, including methamphetamines
- Hallucinogens
- Narcotics
- Cannabinoid
- Any substance for which a prescription is required which has not been obtained or followed by the Driver.
- Any substance the use of which impairs the Driver's ability to safely perform a safety sensitive function.
- Derivation or combination of any of the substances contained in this list.

H. Driver means any person who operates a commercial motor vehicle (CMV) including:

- full-time, regularly employed drivers
- casual, intermittent or occasional drivers
- leased drivers
- independent, owner-operator contractors who are either directly employed by or under contract to the Town or who operate a CMV at the direction of or with the consent of the Town.

I. Evidential Breath Testing Device means the piece of equipment used for alcohol breath testing that has been approved by the National Highway Safety Administration.

J. Medical Review Officer ("MRO") means a licensed physician (either a medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO must have knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history and other relevant biomedical information.

K. Screening Test

1. In **alcohol**, testing means the initial test to determine if a driver has a prohibited concentration of alcohol in their system.
2. In **controlled substances**, testing means a test to eliminate "negative" urine specimens from further consideration.

- L. Performing a Safety Sensitive Function means a driver is considered to be performing a safety sensitive function during any period in which they are actually performing, ready to perform, or immediately available to perform any safety sensitive function.
- M. Safety Sensitive Function means any of the following on-duty functions:
 - 1. At a carrier or shipper plant, terminal or facility, or other property, or on any public property, waiting to be dispatched, unless the driver is relieved from duty by the employer;
 - 2. Inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguisher, spare fuses, or warning devices for stopped vehicles;
 - 3. All time on Town property, public property, or other property waiting to be dispatched or drive;
 - 4. All time inspecting, servicing or conditioning any commercial motor vehicle at any time;
 - 5. All driving time;
 - 6. All time other than driving time in or upon any CMV;
 - 7. 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 receipts for shipments loaded or unloaded;
 - 8. All time spent performing driver requirements relating to accidents;
 - 9. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
 - 10. Operating a non-revenue service vehicle which requires the driver to hold a Commercial Drivers License (CD) Operating a non-revenue service vehicle which requires the driver to hold a Commercial Drivers License (CDL).
- N. Substance Abuse means the patterns of substance abuse that result in health consequences or impairment in social, psychological and occupational functioning.
- O. Substance Abuse Professional, or SAP, means a licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional or certified addiction counselor with

knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substance-related disorders.

P. Supervisor means any person, including any Working Supervisor, Crew Leader, Superintendent, Manager, Director, or other authorized official or authorized agent of the Town who assigns or allows persons to operate a CMV, who supervises such assignment or driving, or who observes such assignment or driving.

III. What Are the Prohibitions?

The Department of Transportation refers to the restrictions for the use of both alcohol and controlled substances as prohibitions.

IV. Alcohol Prohibitions are tied to the performance of safety-sensitive functions in the following ways:

- A. Alcohol Concentration: No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater. No supervisor having actual knowledge that a driver has an alcohol concentration of 0.02 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.
- B. Alcohol Possession: No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol. (unless it is being transported as cargo) NOTE: this includes any product (medication, food or other product) containing alcohol, regardless of the alcohol content. No supervisor having actual knowledge that a driver possesses alcohol may permit the driver to drive or continue to drive a commercial vehicle.
- C. On-Duty Use: No driver shall use alcohol while performing safety-sensitive functions. No supervisor having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.
- D. Pre-Duty Use: No driver shall perform safety-sensitive functions within four (4) hours after using alcohol. No supervisor having actual knowledge that a driver has used alcohol within four (4) hours shall permit a driver to perform or continue to perform safety-sensitive functions.
- E. Use Following an Accident: No driver required to take a post-accident alcohol test under this policy shall use alcohol for (8) hours following the accident, or until they undergo a post-accident alcohol test, whichever is first.

V. Substance Abuse Prohibitions

A. Use Prior To or On-Duty: No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV, and the town has approved, in advance, the driver's performance of safety-sensitive functions under these circumstances.

It is the driver's responsibility to inquire and provide the Town with satisfactory medical documentation that the prescribed substance will not impair the driver's ability to safely perform the duties of the position. The Town may obtain an opinion from its own physician(s). The driver will fully cooperate (release of medical and medication records, etc.) with the Town's efforts to obtain an opinion from its own physician(s).

No supervisor having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

B. Controlled Substances Testing: No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for controlled substances. No supervisor having actual knowledge that a driver tested positive for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions. No supervisor having actual knowledge that a driver possesses a controlled substance shall permit a driver to perform or to continue to perform safety sensitive functions.

C. No driver shall manufacture, distribute, sell or possess a controlled substance while on the job or Town property.

VI. What Tests are Required and When Will An Employee Be Tested?

A. Pre-Placement Testing

When: As a condition of employment, each applicant for a position requiring the performance of a safety sensitive function is required to provide written authorization for all employers of the applicant within the last two years to release records relating to any alcohol or drug tests administered to the applicant. This includes new employees as well as candidates for promotion or transfer to a position requiring the performance of a safety sensitive function.

Note: No person will be considered for a Driver's position who has a positive pre-placement test for alcohol and/or drugs, has had a positive test under an Employer's Drug and Alcohol policy within two years of the application for the

position, who refuses the test or who has refused a test under an Employer's Drug and Alcohol policy within two years of the application for the position.

B. Post-Accident Testing

When: Following an accident in which -

1. A life was lost;
2. The driver was cited for a moving traffic violation;
3. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident;
4. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle;
5. Any other circumstance in which the Town determines that testing is necessary.

Post-accident alcohol testing should be done within two (2) hours of the accident. If an alcohol test is not administered within two (2) hours, the supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight (8) hours of the accident, the supervisor shall cease attempts to obtain a test and shall prepare and maintain the same record. Post-accident Controlled Substance Testing should be administered within 32 hours following the accident. If not, the supervisor shall cease attempts to administer a controlled substance test and prepare and maintain on file a record stating the reasons the test was not promptly administered.

An employee who is subject to post-accident testing shall remain readily available for such testing or will be deemed by the Town to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident, or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

The results of a breath or blood test for the use of alcohol, or a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local requirements and that the results of the tests are obtained

by the employer.

If the employee is hospitalized and unable to perform the requirements of a test, the employee or his or her legal representative shall provide all necessary authorization for the Employer to obtain medical records and reports, including hospital and laboratory records and reports, to determine whether there were any controlled substances or alcohol in the employee's system at the time of the accident.

All instances of post-accident testing shall be documented.

C. Random Testing

Unannounced random testing for both alcohol use and substance abuse is required. A random selection process shall be used to ensure that each driver has an equal chance of being tested each time selections are made. Each driver who is notified of selection for random alcohol and/or controlled substance testing will proceed to the designated test site immediately, provided, however, that if a driver is performing a safety-sensitive function at the time of notification, the driver shall cease to perform the safety-sensitive function and proceed to the testing site as soon as possible.

When: The minimal annual percentage rate for random alcohol testing shall be twenty-five percent (25%) of the average number of driver positions, unless a higher or lower percentage rate is established by the Federal Highway Administrator. The minimum annual percentage rate for random controlled substances testing shall be fifty percent (50%) of the average number of driver positions.

Random alcohol and controlled substances tests conducted under this policy will be unannounced and the dates for administering the tests will be spread reasonably throughout the calendar year.

A driver shall only be tested for alcohol while performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. Random testing for drugs may be done at any time.

D. Reasonable Suspicion Testing

When: Drivers shall be required to submit to an alcohol test when a supervisor has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning alcohol, except for Section IV, Part "B", entitled Alcohol Possession. The supervisor's determination that reasonable suspicion

exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, explainable observations concerning the appearance, behavior, speech or body odors of the driver. Drivers shall be required to submit to a controlled substances test when the supervisor has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning controlled substances.

The supervisor's observations may include indications of the chronic and withdrawal effects of controlled substances. It is understood that any evidence of violations of the prohibitions of this policy, whether regarding alcohol or drug use, when found on Town property or Town equipment, the Town has the right to take custody of said evidence.

1. The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor who is trained in accordance with this policy. The person who makes the determination shall not conduct the alcohol test of the driver.
2. Alcohol testing is authorized by this section only if the observations required by the first paragraph of this section are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with this part.
3. If an alcohol test required by this section is not administered within two (2) hours following the determination under the first paragraph of this section, the supervisor shall prepare and maintain on file a record stating the reasons why the alcohol test was not properly administered. If an alcohol test required by this section is not administered within eight (8) hours following the determination under the first paragraph of this section, the Town shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.
4. Notwithstanding the absence of a reasonable suspicion for an alcohol test under this section, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse, nor shall the Town permit the driver to perform, or continue to perform, safety-sensitive functions until:
 - a. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02, or
 - b. Twenty-four (24) hours have elapsed following the determination under the first paragraph of this section that there is reasonable suspicion to believe that the driver has violated the prohibitions

in this part concerning the use of alcohol.

5. A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor who made the observations, within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

VII. Return to Duty and Follow-up:

When:

- A. Return to duty testing is required for drivers who violate prohibitions and are returning to work. In order to return, an alcohol concentration of less than 0.02 or a negative drug test is required.
- B. Follow-up testing is required when a driver returns to a safety-sensitive function. A minimum of six (6) tests shall be performed during the first year back in a safety-sensitive position. However, the Town may require follow-up testing for up to five (5) years.
- C. Employees returning to work must successfully complete an alcohol and drug test.

VIII. What Happens If An Employee Refuses to be Tested?

Any covered employee who refuses to comply with a request for testing shall be immediately removed from safety-sensitive duty and referred to a SAP for evaluation. A covered employee who refuses to submit to a drug or alcohol test shall be treated as having violated the Town's Drug and Alcohol Policy and relevant DOT regulations and will be subject, at a minimum, to all of the procedures set forth in this Policy for Return to Duty Testing, Follow-Up Testing, and treatment, evaluation, and clearance to return to duty by an SAP. The Town further reserves the right to discipline an employee who refuses to submit to required testing up to and including possible termination from employment. As a covered employee, you have refused to take a drug or alcohol test if you:

1. Fail to appear for any test within the specified time frame, as determined by the DER, after being directed to do so;
2. Fail to remain at the testing site until the testing process is complete;
3. Fail to attempt to provide a urine specimen for any drug test, or fail to attempt to provide a saliva or breath specimen, as required by 49 CFR Part 40 or 49 CFR Part 382;
4. Fail to provide a sufficient amount of urine when directed, or fail to provide a sufficient breath specimen, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure;

5. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen;
6. Fail 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” or insufficient breath procedures;
7. Fail or decline to take a second test the employer, DER, or collector has directed you to take;
8. Fail to cooperate with any part of the testing process (e.g. refusing to empty pockets when so directed by the collector or behaving in a confrontational way that disrupts the collection process);
9. Fail to sign the certification at Step 2 of the alcohol testing form (ATF) for alcohol testing;
10. In the case of a directly observed collection, fail to follow the observer’s instructions to raise your clothing above your waist, lower your clothing and underpants, and turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
11. Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
12. Admit to the collector or MRO that you adulterated or substituted a specimen; or
13. Provide a urine specimen that produces a verified adulterated or substituted test result.

Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of tampering with, contaminating, adulterating, or substituting a specimen will be required to undergo an observed collection.

Failure to appear for pre-employment drug and/or alcohol testing by applicants, or employees being transferred into safety sensitive positions, is not considered a refusal to submit to a drug or alcohol test. However, failure to complete the testing process once testing commences is considered a refusal to submit to pre-employment testing.

IX. How is Alcohol Testing Done?

- A. All alcohol testing is done by a certified Breath Alcohol Technician or BAT, in a private setting where only the BAT and the employee can see or hear the results. An Evidential Breath Testing device (EBT) approved by the National Highway Safety Administration shall be used.
- B. The employee must provide their CDL license for identification. The employee may ask the BAT for their identification as well.
- C. To complete the test, the employee must blow forcefully into the mouthpiece of the testing device. The BAT must show the employee the test result on the testing device.
- D. A screening test is done first. If the reading is less than 0.02, the employee shall sign the certification and fill in the date on the form. The test will be reported

as negative to the Town.

- E. If the reading on the EBT is 0.02 or greater, a confirmation test shall be done after 15 minutes, but within 20 minutes of the first test. The employee shall not be allowed to eat, drink, belch or put anything in their mouth. These steps are necessary to prevent the buildup of mouth alcohol, which could lead to an artificially high test result.
- F. If the screening and confirmation test results are not the same, the confirmation test result shall prevail.
- G. If an employee refuses to be tested or to sign the testing form, the BAT shall immediately notify the Town.

X. How is Drug Testing Done?

- A. Drug testing is done by analyzing a urine sample, which is collected in a private location.
- B. Urine specimens are divided into two containers by the collection site person in your presence. These two samples, called "primary" and "split", are sent to a State certified testing laboratory.
- C. At the laboratory, a screening test is performed on the primary sample. If this test is positive for drugs, a confirmation test is required.
- D. The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive.
- E. If the first test is positive, the Medical Review Officer (MRO) shall notify the employee to find out if there is a medical reason for the drug use. If the employee is able to document why the substance is being taken and the MRO finds it is a legitimate medical use, the test may be reported as negative to the Town.
- F. After being notified that the first test was positive, the employee has 72 hours to request a test of the split specimen. Upon this request, the split specimen shall be send to another DHHS-certified laboratory for the test.
 - 1. If the employee does not contact the MRO within 72 hours, the test shall be reported as positive.
 - 2. If the employee does not contact the MRO within 72 hours, but can prove to the MRO a legitimate reason for not doing so, the MRO can order the split specimen tested.
 - 3. If the MRO is unable to contact the employee, they shall contact the Executive Assistant/Licensing Agent who shall make reasonable efforts to contact the employee and request him/her to contact the MRO.
 - 4. Removal from safety-sensitive duty as required by the DOT following a positive drug test is not delayed to await the result of the split specimen test.

XI. Referral, Evaluation and Treatment

- A. Each driver who has engaged in conduct prohibited by this policy shall be advised by the supervisor of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and use of

controlled substances. The Town is required by law to make treatment accessible to the employee. The Town is not, however, required to hold a job open while an employee undergoes treatment or to pay for rehabilitation.

In circumstances where the Town allows an employee who has engaged in conduct prohibited by this policy to retain employment with the Town, the failure to successfully complete a treatment program will result in disciplinary action, up to and including termination of employment.

- B. Each driver who engages in conduct prohibited by this policy shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances abuse.
- C. Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this policy, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.
- D. In addition, each driver identified as needing assistance in resolving problems associated with alcohol misuse or drug use shall,
 - 1. Be evaluated by a Substance Abuse Professional (SAP) to determine that the driver has properly followed any rehabilitation program prescribed under paragraph "B" of Section XI, and
 - 2. Be subject to unannounced follow-up alcohol and controlled substances tests administered by the Town following the driver's return to duty.

The number and frequency of such follow-up testing shall be as directed by the SAP and consist of at least six (6) tests in the first 12 months following the driver's return to duty. The Town may direct the driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the Substance Abuse Professional determines both are necessary for a particular driver. Any such testing shall be performed in accordance with the requirements established by the Federal Highway Administrator. Follow-up testing shall not exceed sixty (60) months from the date of the driver's return to duty. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines such testing is no longer necessary.

- E. The requirements of this section with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a Pre-placement alcohol or controlled substances test or who have a pre-placement

alcohol test with a result indicating an alcohol concentration of 0.02 or greater or a controlled substances test with a verified positive test result.

XII. Retention of Records

Records of the alcohol misuse and controlled substances use prevention program shall be maintained on a confidential basis in a secure location. All records shall be prepared, retained and released in accordance with applicable Federal Highway Administration Rules and Department of Transportation Regulations.

A driver is entitled, upon written request, to obtain copies of any records pertaining to their use of alcohol or controlled substance, including any records pertaining to their alcohol or controlled substance tests. A driver may also release information to another identified person by a specific written request. Any other release of information must be in strict compliance with Federal law and/or rules.

Generally, driver alcohol and controlled substance testing records are confidential. Generally, release of this information may only be made with the driver's consent or in response to a court order. However, test results and other confidential information may be released to the Employer, the Substance Abuse Professional, the Medical Review Officer, and for any proceeding arising from the results of an alcohol or controlled substance test, including a grievance or arbitration hearing.

XIII. Employer Notifications

The Town will notify a driver of the results of a Pre-placement controlled substance test conducted under this part, if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application. The Town shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this part if the test results are verified positive. The Town shall also inform the driver which controlled substance or substances were verified as positive.

XIV. What are the Consequences of Violating the Alcohol or Drug Prohibitions?

A. Alcohol violations:

1. Removal from safety-sensitive functions;
2. Following a violation, a driver cannot return to a safety-sensitive function until an evaluation has been done and a recommended treatment has been completed;
3. Anyone with an alcohol concentration of 0.02 or greater, but less than 0.04, cannot return to safety-sensitive duties for at least 24 hours.

B. Drug violations:

1. Removal from safety-sensitive functions;
2. A driver cannot return to a safety-sensitive job until an evaluation has been performed, recommended therapy is completed and a verified negative drug test is produced.

C. No supervisor shall permit a driver who has engaged in conduct prohibited by this policy to perform safety-sensitive functions, driving a CMV unless the driver has met the requirements of the Referral, Evaluation and Treatment section of this policy.

D. Massachusetts Safety Rules:

Massachusetts has adopted certain Commercial Motor Vehicle Safety Act Rules which affect drivers. These rules are spelled out on Page 1-4 and 1-5 of the Massachusetts Commercial Drivers License Manual. The ones most relevant to this policy are:

1. Employee must notify the Town within 30 days of a conviction for any traffic violation (except parking). This is true no matter what type of vehicle he/she was driving.
2. Employee must notify the Town if their license is suspended, revoked, or cancelled, or if they are disqualified from driving.
3. Employee will lose their Commercial Driver's License (CDL) for at least one year for a first offense if they drive a commercial motor vehicle under the influence of alcohol (i.e., with a blood alcohol concentration of 0.04 percent or more) or a controlled substance. They will lose their CDL for life for a second offense.
4. Employee will lose their CDL for at least one year if they leave the scene of an accident involving a commercial motor vehicle they were driving.

E. **ANY VIOLATION OF THE PROHIBITIONS OF THIS POLICY, INCLUDING THE PROHIBITIONS CONTAINED HEREIN, IS A VERY SERIOUS OFFENSE. IN ADDITION TO ANY OTHER CONSEQUENCES SET FORTH IN THIS POLICY, A VIOLATION WILL SUBJECT AN EMPLOYEE TO DISCIPLINE UP TO AND INCLUDING DISCHARGE.**

XV. Employee Training

The Town will provide each employee with this policy as educational material that explains the requirements of the applicable Federal Law and Rules, the Town policy and requirements, and the procedures with respect to meeting the requirements.

XVI. Compliance With Law/Severability

Should any of the provisions of this Policy be determined by a court of competent jurisdiction to be legally invalid, no other portion or proviso of this Policy shall be invalidated, impaired or affected thereby, but the Policy shall be construed as if such invalidated provision had not been contained herein.

Kristen Reed

Kristen Reed, Chair

Robert Weinstein

Robert Weinstein, Vice Chair

John X. Dundas

John Dundas, Clerk

Susan Areson

Susan Areson

Stephanie Rein

Select Board
Town of Truro

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Revised September 13, 2022
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TOWN OF TRURO

REASONABLE SUSPICION

ALCOHOL AND DRUG TESTING

PROCEDURE - EMPLOYEE

Philosophy: An employer may be considered to be negligent in the event of an incident where a driver is not safe.

Purpose: To evaluate an employee's fitness to perform their job while in a safety-sensitive position and to rule out possible substance use/abuse. Substance Abuse testing is part of the Town policy to provide a safe work environment free from controlled substance and alcohol abuse.

Testing Will Include:
Urine Drug Screen
Breath Alcohol Level

Procedures:

1. The Town of Truro has established a drug policy statement and has adopted procedures for causal testing and handling of employees with positive results.
2. The Supervisor and the Director of Public Works shall determine the need for causal drug and alcohol testing.
3. A Reasonable Cause Documentation Report (RDC) will be completed by the Supervisor and signed by the Director of Public Works.
4. The Supervisor and/or Director will explain to the employee that they will have drug and alcohol testing. A signed Consent form will be obtained.
5. The supervisor will accompany the employee for the testing and wait for the employee. Completed form will be delivered to testing personnel.
6. Collection of specimens per standard protocol is done by qualified personnel. Positive photo identification (CDL) is necessary or specimens will not be collected.
7. The employee is escorted back to home and will be suspended with pay pending results of testing.

TOWN OF TRURO

REASONABLE SUSPICION

ALCOHOL AND DRUG TESTING

PROCEDURE - SUPERVISOR

Philosophy: An employer may be considered to be negligent in the event of an incident where a driver is not safe.

Purpose: To evaluate an employee's fitness to perform their job while in a safety-sensitive position and to rule out possible substance use/abuse. Substance Abuse testing is part of the Town policy to provide a safe work environment free from controlled substance and alcohol abuse.

Testing Will Include: Urine Drug Screen
Breath Alcohol Level

Procedures:

1. Identification of problem. When a supervisor questions an employee's fitness to perform their job, he must contact the DPW Director or Supervisor.
2. The Director or Supervisor will observe the employee's behavior and verify the need for causal drug and alcohol testing.
3. If the need for causal testing is substantiated, the Director or Supervisor must do the following:
 - a. Complete the Reasonable Cause documentation form (RCD Form), recording observations. This report is to be signed by the Director and/or Supervisor.
 - b. Explain to the employee that they will have drug and/or alcohol testing and obtain a signed Consent Form. Completed forms will be place in the Driver's Personnel File.
 - c. Notify Medical Testing Services at _____.
1. Accompany the employee for testing and wait for the employee. Positive photo identification (CDL) is necessary or the specimen will not be collected.

TOWN OF TRURO

MEDICAL EVALUATION

EMPLOYEE CONSENT FORM

I, _____ understand that a need for drug and alcohol testing has been determined. I understand and agree that my urine and breath will be tested for designated (illegal) drugs and alcohol.

I understand that if I decline to sign this consent, the test will not be conducted, but the Town Manager will be notified, and I will be subject to termination of employment.

I consent and agree to release the results of such tests and other related medical information to the appropriate agent of the Town of Truro and/or its subsidiaries.

I hereby **Consent**
 Refuse to Consent

Signature of Employee: _____

Signature of Witness: _____

Date: _____

Check here if employee refused to consent or sign. Ensure that the employee understands the consequences (i.e., termination).

TOWN OF TRURO

RCD FORM **REASONABLE CAUSE DOCUMENTATION**

Prepare this form every time an employee is suspected of drug or alcohol abuse by actions, appearance or conduct which constitutes a major change in a person's appearance and/or behavior.

Employee or Driver's Name: _____

Date of Observation: _____

Time of Observation: From _____ a.m./p.m. To _____ a.m./p.m.

Location: _____

OBSERVED BEHAVIOR - Circle All Appropriate Items

PHYSICAL INDICATORS

Pupils Dilated
Noticeable Weight Loss
Neglect of Personal Hygiene
Tremors
Odor of Alcohol

Chronic Redness of Eyes
Loss of Appetite
Cold Sweats
Rapid Breathing
Odor of Marijuana

SPEECH

Thick
Rapid
Slurred
Incoherent
Excessively Talkative

BALANCE

Unsteady
Swaying
Falling

EMOTIONAL INDICATORS

Depression
Anxiety
Alienation
Combative
Withdrawal
Moodiness
Irritability

WALKING

Stumbling
Staggering
Grasping for Support

TOWN OF TRURO

EMPLOYEE ACKNOWLEDGEMENT

I HEREBY CERTIFY THAT THE ALCOHOL AND DRUG USE AND TESTING POLICY FOR EMPLOYEES IN POSITIONS REQUIRING A COMMERCIAL DRIVER'S LICENSE (CDL) AND WHICH ARE DEFINED AS SAFETY-SENSITIVE HAS BEEN PROVIDED TO ME AND I AM AWARE THAT I MAY DIRECT ANY QUESTIONS OR CONCERNS TO THE DPW DIRECTOR OR TOWN MANAGER.

Employee

Date

This acknowledgement will be forwarded to the Human Resources Department and maintained in the Employee's file or other file as required.

Policy Memorandum #22, Revised
Drug and Alcohol Testing Policy
October 27, 1998, Revised December 5, 2017
Revised September 13, 2022
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TOWN OF TRURO

EMPLOYEE CONFIRMATION OF RECEIPT

I hereby certify that I was given a copy of the Town of Truro Drug and Alcohol Testing Policy, dated _____, and have been given an opportunity to ask questions about the content of the policy at Drug and Alcohol Training Sessions that were held at various times throughout the calendar year _____.

Employee's Name

Department

Employee's Signature

Date

TOWN OF TRURO

PRE-PLACEMENT CONSENT TO DRUG AND ALCOHOL SCREENING EMPLOYEE CONSENT

I, _____ Social Security Number: _____

understand that the medical examination that I am about to receive includes:

- { } A blood test for the presence of drugs and/or alcohol.
- { } An evidential breath test (EBT) for the presence of alcohol.
- { } A urine test for the presence of drugs and/or alcohol.

I hereby give my consent to _____ to perform these tests. I understand that if I decline to sign this consent, and thereby decline to submit a sample for the test, the test will not be completed. The Town of Truro will be notified and my application for employment will be rejected.

I further consent to the release of the results to the Town Manager and Director of Public Works.

I have taken the following drugs or substances within the last 96 hours:

<u>Identify</u>	<u>Name & Amount</u>	<u>Prescribing Physician</u>
{ } Sleeping Pills	_____	_____
{ } Diet Pills	_____	_____
{ } Pain Relief Pills	_____	_____
{ } Cold Tablets	_____	_____
{ } Anti-Malarial	_____	_____
{ } Other	_____	_____

{ } CONSENT GIVEN

{ } CONSENT REFUSED

Specimen Number: _____ Signed: _____

Date: _____

Witness: _____

Policy Memorandum #22, Revised
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**AMENDMENT TO THE
JULY 1, 2015
THROUGH
JUNE 30, 2018
COLLECTIVE BARGAINING AGREEMENT
BETWEEN
THE TOWN OF TRURO
AND
AFSCME, AFL-CIO, STATE COUNCIL 93, LOCAL 1462**

AFSCME, AFL-CIO, State Council 93, Local 1462 (Truro DPW Union) acknowledges its receipt of and agreement to the Town of Truro's Drug And Alcohol Testing Policy For Employees In positions Requiring A Commercial Driver's License (CDL) And Which Are Subject to Regulation by the U.S. Department of Transportation, including the following documents:

- a) Policy Memorandum #22, Revised December 5, 2017;
- b) Attachments to Policy Memorandum #22, Revised (Reasonable Suspicion Alcohol and Drug Testing Employee Procedure; Reasonable Suspicion Alcohol and Drug Testing Supervisor Procedure; Medical Evaluation - Employee Consent Form; RCD Form - Reasonable Cause Documentation; Employee Acknowledgement; Employee Confirmation of Receipt; Pre-Placement Consent to Drug and Alcohol Screening; Employee Consent).

By: _____

By: _____

Title: _____

Title: _____

For: Town of Truro

For: Local 1462

Date: _____

Date: _____

Policy Memorandum #22, Revised
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December 6, 2017
Scott Taveira, South Shore Staff Representative
AFSCME Council 93
46 Foster Street
New Bedford, MA 02740

Re: Drug And Alcohol Testing Policy For Employees In Positions Requiring A Commercial Driver's License (CDL) And Which Are Subject to Regulation by the U.S. Department of Transportation

Dear Mr. Taveira:

As you may know, federal law requires the Town to maintain a drug and alcohol testing policy for employees who are required to have commercial driver's licenses. Recently, the Board of Selectmen has reviewed and made changes to update the existing policy. Attached you will find the proposed revised Drug And Alcohol Testing Policy For Employees In Positions Requiring A Commercial Driver's License (CDL) And Which Are Subject to Regulation by the U.S. Department of Transportation. It includes several attachments.

Please review the policy. If the Union has any suggestions, comments, questions or concerns and would like to discuss them with me, please notify me no later than December 31, 2017. If I don't hear from you by that date, I will assume that the policy is acceptable as proposed and proceed accordingly.

Thank you for your prompt attention to this matter.

Sincerely,

Rae Ann Palmer
Town Manager

Enclosures

Copy to: Labor Counsel
Select Board
DPW Director