



# Town of Londonderry, New Hampshire

## Administrative Policies and Procedures

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Policy Title: **Drug and Alcohol Policy for Federal Motor Carrier Safety Administration Regulated Drivers**

Policy Number: **ADM-117**

Original Adoption Date: 1/22/2026

Revision Date:

Approved by: Town Manager

Signed by:  
*Shawn Mulholland*  
82BB7E423858440...

### Section 1.0: Purpose

1. Compliance with DOT Regulations 49 CFR Parts [40](#) and [382](#).
2. To provide a safe, drug-free, and alcohol-free work environment.

### Section 2.0: Scope

1. All drivers who operate Commercial Motor Vehicles (CMV) as defined by 382.107 must be subject to testing as per Part 382.103.
2. All drivers who hold a Commercial Driver's License (CDL) and drive vehicles in the following categories:
  - Vehicles with a gross weight rating of 26,001 pounds or more.
  - 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 10,001 pounds or more.
  - Vehicles designed to transport 16 or more passengers including the driver.
  - Vehicles of any size used to transport materials found to be hazardous and which require the vehicle to be placarded under Hazardous Materials Regulation Part 172, Subpart F.

### Section 3.0: Definitions

The following definitions apply to this Policy:

### Section 4.0: Policy Detail

#### 4.1 Policy Statement

1. No driver shall possess or consume drugs or alcohol while on Town time or property. This includes unpaid meal and break periods.
2. No driver may consume alcohol four (4) hours prior to on-duty time as per Part 382.207.
3. No driver will participate in the unauthorized use, abuse, or sale of any controlled substance.
4. The use or sale of any controlled substance at any time is not permitted.

#### 4.2 Notification of Conviction:

Any employee who is convicted of any criminal drug or alcohol violations must notify Town of Londonderry's DER in writing within five calendar days of the conviction. The Town will take appropriate action within 30 days of notification. In deciding what action to take, Town

of Londonderry will take into consideration the nature of the charges, the employee's present job assignment, the employee's record with Town of Londonderry, the impact of the employee's conviction on the conduct of Town of Londonderry business, and any other factor Town of Londonderry may deem relevant.

#### **4.3 Testing**

1. No driver shall report for duty or remain on duty that requires performing a safety-sensitive function when the driver uses any controlled substance, except when the use is a non-Schedule I drug or substance, and is at the instruction of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a CMV as per Part 382.213.
2. 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 (per DOT requirements) to test for the presence of the following substances:
  - Marijuana
  - Opioids
  - Cocaine
  - Phencyclidine
  - Amphetamines
3. Town of Londonderry reserves the right to require non-DOT drug and alcohol testing in addition to the DOT required testing.
  - Non-DOT testing will be analyzed per individual by urinalysis, hair, saliva, and/or sweat. Substances to be tested for may be the same as the DOT required substances. Additional substances may include but are not limited to:
    - Barbiturates
    - Benzodiazepines
    - Buprenorphine
    - Fentanyl
    - Methadone
    - Methaqualone
    - Propoxyphene
4. Alcohol screening tests are performed via breath analysis. A trained Breath Alcohol Technician (BAT) using a DOT approved testing device will perform these tests.
5. 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.

#### **4.4 Reasons for Testing**

1. **Pre-employment (Part 382.301)**
  - Prior to the first time a driver performs a safety-sensitive function, or any duty for the Town, 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 Town will rescind the employment offer.
2. **Post-accident (Part 382.303)**
  - Any incident at the discretion of the Designated Employer Representative (DER) in addition to the requirements of Part 382.303.
  - As soon as practicable following an occurrence involving a Commercial Motor Vehicle (CMV) operating on a public road in commerce, the employer shall test for drugs and alcohol, each driver who:

- Performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- Receives a citation under State or local law for a moving violation arising from the accident if the accident involved:
  - Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
  - 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 (8) 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.
  - As per Part 382.303 (d)(1), if an alcohol test is not completed within two (2) hours following an accident, the employer must document the reason why the test was not administered. After eight (8) hours if the test is not administered, the employer must cease attempts to test and document why the test was not administered.
  - As per Part 382.303 (d)(2), if a drug test is not completed within thirty-two (32) hours following an accident, the employer is responsible for ceasing attempts to test and documenting the reason why the test was not administered.
- All drivers will immediately contact their supervisor or DER for instructions. The driver will not drive to the testing facility. Either the testing collector will travel to the accident, if applicable, or the driver will be brought to the testing facility.
- If an accident occurs and is not reported by the employee within a reasonable amount of time, the Town reserves the right to perform non-DOT post-accident drug and/or alcohol testing.

### 3. Random Testing (Part 382.305)

All drivers subject to the Federal Motor Carrier Safety Administration (FMCSA) regulations as outlined under the APPLICABILITY section of this policy shall be required to submit to drug and alcohol 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, LLC (ODTNE) located at 56 Old Suncook Road Concord, New Hampshire 03301. ODTNE will perform all aspects of program management including, but not limited to, random selection, quarterly statistic reports, scheduling and/or collecting samples.
- Drug and alcohol tests will be performed at Town of Londonderry, a worksite of Town of Londonderry that has the proper accommodations, a collection site or at ODTNE in Concord NH.
- Random selection and subsequent testing will be performed in accordance with the pre-determined percentage rates set forth by the Federal Motor Carrier Safety Administration. Testing rates are subject to change annually. These tests will be spread throughout the year and shall be performed with little or no notice to the drivers. 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.

- As a practical matter relating to random selections, certain individuals will be selected multiple times and others very infrequently, if at all, over a period of years. This does not indicate a bias for a specific individual. This is a statistical characteristic of randomness. Individuals, even those who are selected as many as four times in a year, should understand they are not identified in any way to have a higher probability of actual selection.
- After a driver is selected randomly, his/her name is returned to the consortium for possible future selection and a chance of being selected in the future will not be changed.

#### **4. Reasonable Suspicion (Part 382.307)**

- Per the DOT regulation Part 382.307 (a), reasonable suspicion alcohol testing shall only be required when an employer believes the driver has violated the Prohibitions of 382-Subpart B concerning alcohol. The employer's determination for requiring this test must be made based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.
- Per the DOT regulation Part 382.307 (b), reasonable suspicion controlled substance testing shall only be required when an employer believes the driver has violated the Prohibitions of 382-Subpart B concerning controlled substances. The employer's determination for requiring this test must be made based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.
- Per the DOT regulation Part 382.307 (d), observations of behavior determined by the employer must be made before, during or after the driver is performing a safety-sensitive function and testing may only be performed before, during or after the driver is performing a safety-sensitive function.
- Determinations of reasonable suspicion will only be made by a supervisor or Town 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.
- All testing shall be conducted as soon as possible after the determination to test has been made. If the driver needs to be transported to the collection site, it will be by a supervisor, and the driver will not be allowed to perform any safety-sensitive function or drive any Town vehicle until negative results are confirmed. Appropriate measures will be taken to transport the driver home after the test has been taken to ensure the safety of the driver and the general public. Such measures may include but are not limited to calling a family member, calling a car service, or driving him/her home.

#### **5. Return-to-Duty**

- Part 382.309 says the employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in Conduct Prohibited by 382-Subpart B concerning alcohol, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02, and
- The employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in Conduct Prohibited by 382-Subpart B concerning drugs, the driver shall undergo a return-to-duty, directly observed drug test with a result indicating a verified negative result.

#### **6. Follow-up (Part 382.311)**

- Following a determination under Part 40.289 (a), that a driver is in need of assistance in resolving problems associated with misuse of drugs and/or alcohol, the employer shall ensure that the driver is subject to unannounced follow-up, directly observed drug testing and/or alcohol testing as directed by a DOT certified Substance Abuse Professional (SAP). In accordance with the provision of Part 40.289 (b), 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.
- Driver is responsible for costs accrued by violating this policy up to and including drug and alcohol testing, SAP evaluation, educational classes, etc.
- Driver may stay employed by Town of Londonderry, not in a safety-sensitive position from the time of a verified violation through the time of a confirmed negative screen if a position is available.
- If after 12 months, the driver is still in the follow-up program, the employer reserves the right to terminate employment.
- If the driver is terminated during a follow-up program, they are required by the FMCSA regulations to continue in a program while working for any Federal Motor Carrier.

#### **7. Refusal to Submit (Part 382.107)**

Any driver 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 section VII; CONSEQUENCES OF VERIFIED VIOLATIONS & POSITIVE TEST RESULTS.

- Refusal to submit (Definitions Part 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 driver has received notice of a required test as well as refusal to submit to a medical evaluation as required by Part 40.193 (d). (In the case of a pre-employment drug test, the driver 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 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.
  - Leaving the scene of an accident without a valid reason before tests have been conducted.
  - Failure to remain at the testing site until the testing procedures are completed.
  - Failure to submit to a second test that the employer or certified collector has directed the driver to take.
  - A result reported by the MRO as being a verified, adulterated, or substituted test.

## **Section 5.0: Procedures**

### **5.1 Drug and Alcohol Testing Procedures (Parts 40,382 and 383)**

1. All procedures for drug and alcohol collections and testing shall be performed in accordance with FMCSA regulations Parts 40, (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) 382, (Controlled Substance and Alcohol Use and Testing) and 383 (Commercial Driver's License Standards; Requirements and Penalties).
2. Specimen collection procedures are as follows:
  - Federal, State or Local Government photo ID is required or positive ID by the DER of the Town.
  - Driver will be directed to remove outer clothing, including jacket, coat, hat etc. in addition to emptying their pockets of items that could adulterate the specimen. Driver is allowed to keep their wallet. A receipt will be issued for items left with the collector upon request.
  - Driver will be advised that failure to comply with the directions of the collector constitutes a refusal to test.
  - Driver will be instructed to wash their hands prior to the collection and not again until after the specimen has been given to the collector.
  - Driver will choose a collection kit to be used for specimen.
  - Driver will be instructed to provide a sufficient specimen and given a reasonable time limit to provide the specimen.
  - Driver will be instructed to initial the sample bottles and fill in their information on the chain of custody in view of the collector.
  - Driver will be given copy 5 of the chain of custody.
  - Driver will be instructed they may leave the collection facility.
3. A split sample will be performed as per the DOT regulations to allow a donor that has tested positive to request sample B, be sent to a secondary laboratory for verification.
4. All specimens will be collected at locations which afford privacy for the driver. Providing a urine sample will not be directly observed unless the driver's conduct indicates an attempt to tamper with the specimen, adulterate the specimen or if the reason for testing is return to duty or follow-up.
5. If the specimen temperature is outside the acceptable range, the driver will be required to submit to a new collection using direct observation procedures as per Part 40.67.
6. Urine samples will be tested for drugs at laboratories certified by the US Department of Health and Human Services (DHHS).

### **5.2 Testing Results (Part 382.401 Subpart D)**

1. 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, ODTNE, DOT agents and associates.
2. A negative drug or alcohol test result is indicative of having passed the test. No further action needs to be taken.
3. In the event of a negative-dilute result, a second collection will be performed with minimal advanced notice to the donor.
4. Although a DOT positive alcohol test result is defined as a confirmation alcohol concentration of greater than or equal to 0.04 and a drug test determined and reported as positive by the MRO, Town of Londonderry's policy defines a positive as a

confirmation of .02 or greater alcohol concentration and a drug test determined and reported as positive by the MRO.

5. No driver shall report or remain on duty that is performing a safety-sensitive function while having an alcohol concentration of 0.02 or greater. No employer 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.
6. All drug test results, positive or negative, will be reviewed by an MRO prior to being reported to the employer. In the case of a positive test result, the MRO will contact the driver and discuss the results prior to reporting them to the employer. If the driver can show a legitimate medical reason for testing positive, the MRO will report the result as negative to the employer.
7. A positive controlled substance result means the driver has failed the test and needs to be removed from safety-sensitive functions immediately. Within 72 hours, the driver 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 driver may return to his safety-sensitive function.

### **5.3 Consequences of Verified Violations and Positive Test Results (Part 40, Subpart O)**

1. The DOT requires anyone who refuses to test be treated as though the test was positive and all consequences for a verified violation apply.
2. Under this policy, a driver who refuses to test will be terminated.
3. A driver who has a verified violation will be provided information by the employer on where to go for guidance regarding substance misuse.
4. A driver with a verified drug and alcohol program violation is prohibited from performing safety-sensitive functions until the return-to-duty process is complete.
5. The employer provides the driver with a list of DOT qualified SAPs, as required by 40.287. The driver selects their SAP from this list or based on their own research.
6. Unless already registered, the driver registers and designates their SAP in their FMCSA Clearinghouse account.
7. Once the designated SAP approves the driver's request, they will be able to enter the return-to-duty information about the driver, perform the initial evaluation, and complete an assessment.
8. The SAP provides the employer with recommendations for education/treatment. After the driver completes the education/ treatment, the SAP re-evaluates the driver to determine compliance and establish a follow-up testing plan. The SAP determines the driver is now eligible for a return-to-duty test. (Return-to-duty and follow-up test collections are directly observed.)
9. The current employer sends the driver for the test. (In the case of an owner-operator, these steps must be completed by a designated C/TPA.)
10. The driver is no longer prohibited from performing safety-sensitive functions once they have a negative return-to-duty test result.
11. The current employer receives a negative return-to-duty test result and allows driver to return to performing safety-sensitive functions.
12. Any employer that employs this driver during the prescribed period must receive and complete the follow-up testing plan as specified by the SAP. (In the case of an owner-operator, these steps must be completed by a designated C/TPA.)

13. This information is retained in the Clearinghouse for five years from the date of the violation determination or until the successful completion of the follow-up testing plan, whichever is later.
14. A follow-up testing program will include a minimum of six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the driver's return to safety-sensitive functions.
15. A follow-up testing program may include a greater number of tests than the required minimum six tests during the first 12-month period and may also continue through the next 48 months of safety-sensitive duties following the first 12-month period.
16. Under this policy, the consequences for a first verified positive test result or verified violation excluding a refusal to test will be:
  - Immediate suspension from safety-sensitive functions.
  - Complete the evaluation, referral and treatment program otherwise known as the return-to-duty process, set forth by the designated SAP and return to performing safety-sensitive functions.
  - Fulfill the follow-up testing program requirements set forth by the designated SAP.
17. Under this policy, the consequences for a second verified positive test result or verified violation will be termination.

#### **5.4 Drug and Alcohol Clearinghouse (Part 382.701)**

1. The FMCSA drug and alcohol clearinghouse is a federal database containing information about CDL/CLP drivers who have violated the FMCSA's drug or alcohol regulations in 49 CFR part 382. Whether a driver has committed such a violation or not, the employer is required to check whether the clearinghouse has any information about the driver, both at the time of hire and annually. When conducting an annual inquiry, the employer has the option to request a "limited" report that only indicates whether the clearinghouse has any information about the driver; it does not release any violation or testing information. Before the employer can request a limited report, they must have the driver's written authorization per 49 CFR part 382.701(b). This authorization will be valid throughout the driver's employment with the employer. If a limited query ever reveals the clearinghouse has information about the driver, the driver will be required to log in to the clearinghouse website within 24 hours to grant electronic consent for the employer to obtain a "full query" of the drivers' clearinghouse record. Refusal to provide such consent will result in immediate removal from safety-sensitive duties.
2. By signing the "acknowledgement of receipt and review of this drug and alcohol policy" you allow to conduct limited annual queries of the FMCSA's drug and alcohol clearinghouse, to determine if a clearinghouse record exists for you. This consent is valid from the date of signature until your employment with Town of Londonderry ceases or until you are no longer subject to the drug and alcohol testing rules in 49 CFR Part 382 for Town of Londonderry.
3. The following personal information collected and maintained under this part shall be reported to the clearinghouse:
  - A verified positive, adulterated, or substituted drug test result.
  - An alcohol confirmation test with a concentration of 0.04 or higher.
  - A refusal to submit to any test required by subpart C of this part.
  - An employer's report of actual knowledge, as defined at 382.107.
    - On duty alcohol use pursuant to 382.205.
    - Pre-duty alcohol use pursuant to 382.207.

- Alcohol use following an accident pursuant to 382.209; and
- Controlled substance use pursuant to 382.213.
- A substance abuse professional (SAP as defined in 40.3 of this title) report of the successful completion of the return-to-duty process.
- A negative return-to-duty test; and
- An employer’s report of completion of follow-up testing.

**5.5 General Requirements**

1. The receipt of this policy with signature will be kept in the driver's drug and alcohol testing folder.
2. A Drug and Alcohol Testing Informational Handbook will be given to each driver to meet the educational materials requirements in Part 382.601.
3. Signing the “acknowledgement of receipt and review of the employer’s drug and alcohol policy and educational materials form” is a requirement of Part 382.601 (d).
4. If a prospective driver refuses to acknowledge receipt of a copy of the materials listed above, the driver will not be hired.
5. All drivers are required under Part 382.601 (b)(11) to report any other driver’s behavior showing any signs and symptoms of substance abuse issues to their supervisor or DER.

**Section 6.0: References and DER Information**

1. Federal Motor Carrier Safety Administration Regulations Handbook
  - Complete hard copy can be located at the employer’s office.
  - Most up-to-date full list of regulations are located at the following locations:
    - [49 CFR Part 382 – Controlled Substances and Alcohol Use and Testing](#)
    - [49 CFR Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs](#)
2. Any questions associated with this policy should be directed to the Designated Employer Representative. The contact information:  
 Human Resources Director  
 Town of Londonderry  
 268B Mammoth Road  
 Londonderry, NH 03053  
 P: 603-432-1100

**Section 7.0: Policy & Procedure Revision History**

Original Adoption Date: 3/24/1997		
Section	Description of Revision	Date
	Formerly Title VI Town Policy Resolution 1997-04 (Chapter II)	03/24/1997
	<b>Complete Re-Write and renumbered</b>	<b>1/22/2026</b>