

# TOWN OF CANANDAIGUA

## CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY

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# CHAPTER 1 – INTRODUCTION

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## ***POLICY STATEMENT AND SUMMARY***

The Town of Canandaigua is committed to protecting the health, safety, and welfare of all employees, eliminating accidents that result from the use of alcohol and illegal drugs, and to preserving high performance standards. As such, the use of alcohol or illegal drugs in the workplace, or as it affects the workplace, is prohibited and will not be tolerated. The Town of Canandaigua expects that all covered employees will strictly adhere to the Town's policy.

As an outgrowth of the Omnibus Transportation Employee Testing Act of 1991, the Federal Department of Transportation issued new rules on February 15, 1994 that expanded drug and alcohol testing requirements for covered employees. As a covered employer, the Town of Canandaigua is required to develop policies to comply with these requirements. This manual describes the Town of Canandaigua's policies on the use of alcohol and controlled substances in the workplace and the rules and procedures for testing for such substances.

## ***POLICY REVISIONS***

The Town of Canandaigua reserves the right to interpret, add to, revoke, or revise any part of the Town's Controlled Substances and Alcohol Testing Policy to the extent allowed under the Federal regulations. Moreover, these policies shall be deemed to be revised to meet any changes in applicable governmental regulations that may occur.

## ***SAVINGS CLAUSE***

The Town of Canandaigua has made every effort to ensure that this Controlled Substances and Alcohol Testing Policy complies with government regulations. In the event any of the provisions, portions or applications of this policy are found to be invalid or inconsistent with any superseding legal requirements by any tribunal of competent jurisdiction, then the provisions, portions or applications specified in such decision shall be of no force and effect, but the remainder of this policy shall continue to be in full force and effect.

## ***DESIGNATED EMPLOYER REPRESENTATIVE***

The Highway Department Account/Clerk Typist is the Town of Canandaigua's Designated Employer Representative (DER). The Human Resources Coordinator will act as the Town's second DER. Responsibilities of the DER include, but are not limited to, the following:

- a) Acting as a liaison between the laboratory, collection site, Medical Review Officer (MRO), and the Town of Canandaigua;
- b) Notifying employees who are to be tested based on random selections;
- c) Removing employees who violate the Substance Testing Policy from safety-sensitive duties; and
- d) Documenting procedures and reporting requirements.

**QUESTIONS**

Covered employees who have questions regarding this policy should direct them to the DER.

## CHAPTER 2 – DEFINITIONS

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For purposes of clarity and understanding, the following definitions apply to the Town of Canandaigua's Controlled Substances and Alcohol Testing Policy:

**Accident** – An occurrence involving a commercial motor vehicle operating on a public road which results in:

- (i) A fatality; or
- (ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- (iii) One or more motor vehicles incurring *disabling damage* (see definition of disabling damage, below) as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

**Adulterated Specimen** – A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

**Alcohol** – To include the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

**Aliquot** – A fractional portion of a urine specimen used for testing. It is taken as a sample representing the whole specimen.

**Applicant** – An individual applying for a job at the Town of Canandaigua that entails driving a commercial motor vehicle that requires a commercial driver's license (CDL) to operate or which is in any other way subject to DOT substance testing regulations. An applicant also includes a Town of Canandaigua employee in a non-covered position who is applying for a covered position.

**Breath Alcohol Technician** (BAT) – An individual who instructs and assists individuals in the alcohol testing process and who operates an Evidential Breath Testing Device (EBT). A BAT must complete a course of instruction for operation of an EBT as developed by the DOT.

**Chain of Custody** – Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition of the specimen.

**Collection Site** – A place or places designated by the Town of Canandaigua where employees must report for the purpose of providing a urine specimen to be analyzed for the presence of drugs and/or a breath test to be analyzed for the presence of alcohol.

**Collection Site Person** – A person who instructs and assists employees at a collection site. A collection site person also receives and makes the initial exam of the urine specimen provided. A collection site person will be a licensed medical professional or technician who has been trained in specimen collection.

**Commercial Motor Vehicle** – A motor vehicle or a combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; or has a GVWR of 26,001 or more pounds; or is designed to transport 16 or more passengers, including the driver; or is of any size and is used in the transportation of

materials (both intrastate and interstate) 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 Material Regulations (49 CFR part 172, subpart F).

**Commercially Licensed Driver or Driver** – An individual that is employed by the Town of Canandaigua who operates a commercial motor vehicle and is subject to federal CDL requirements as defined by the FMCSA.

**Confirmation Test** – For alcohol, this means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. For drug testing, this means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite. At present, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

**Covered Employee** – An individual that is employed by the Town of Canandaigua who operates a commercial motor vehicle and is subject to federal CDL requirements as defined by the FMCSA. This includes, but is not limited to, full-time, part-time, casual, intermittent, or occasional employees; leased employees; and independent, owner-operator contractors who are either directly employed by, or under lease to, the Town of Canandaigua or who operate a commercial motor vehicle at the direction of, or with the consent of, the Town.

**Covered Position** – A position which requires an employee to operate a commercial motor vehicle and possess a commercial driver's license, or which is in any other way subject to FMCSA substance testing regulations.

**Designated Employer Representative** – An individual identified by the Town of Canandaigua as able to receive communications and test results from service agents and who is authorized to take immediate action to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes.

**Dilute Specimen** – A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Disabling Damage** – Damage which precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair. This includes damage to motor vehicles that could have been driven, but would have been further damaged if so driven. Disabling damage does not include:

- (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts;
- (ii) Tire disablement without other damage even if no spare tire is available;
- (iii) Headlight or taillight damage; or
- (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

**DOT Agency** – An agency of the United States Department of Transportation (DOT) that administers regulations and requires compliance. For the purpose of this policy, the Federal Motor Carrier Safety Administration (FMCSA) is the DOT agency whose regulations this substance-testing program is modeled after.

**Drugs or Controlled Substances** – For the purpose of this policy, the terms “drugs” and “controlled substances” are interchangeable and have the same meaning. In accordance with the federal regulations, drugs or controlled substances will mean and refer to marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

**Employee** – Any individual employed by the Town of Canandaigua.

**Evidential Breath Testing (EBT) Device** – A device for the evidential testing of a covered employee’s breath that is approved by the National Highway Traffic Safety Administration and identified on NHTSA’s Conforming Products List of Evidential Breath Measurement Devices (CPL), and identified as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

**Invalid Specimen** – A urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

**Medical Review Officer (MRO)** – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by this testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a individual’s positive test result, together with the individual’s medical history and any other relevant biomedical information.

**Non-Negative Specimen** – A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

**Safety-Sensitive Function** – All time from the time a covered employee begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the Town;
2. All time inspecting equipment as required by 49 CFR, Sections 392.7 and 392.8, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All driving time, which is any time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth as defined by the regulations;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining with a disabled vehicle.

**Screening Test or Initial Test** – For the purpose of alcohol testing, an analytical procedure to determine whether an individual may have a prohibited concentration of alcohol in his or her system. For the purpose of controlled substance testing, the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.



**Substance Abuse Professional (SAP)** – A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or a drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC)) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders. A SAP must meet basic knowledge, qualification training, and continuing education requirements as set forth in 49 CFR Part 40, as amended.

**Validity Test** – A test used to determine if a urine specimen is adulterated, diluted, or substituted.

# CHAPTER 3 – CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY

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**Most of the rules and procedures pertaining to controlled substances and alcohol testing are established in the federal regulations established under the Omnibus Transportation Act of 1991. However, certain issues are left to the independent authority of the Town of Canandaigua including, but not limited to, testing fees, rehabilitation costs, and disciplinary action. All provisions that are included in this policy that are not mandated by the federal regulations but are based on the Town of Canandaigua's independent authority are identified herein as being independently authorized.**

## ***COMPLIANCE WITH FEDERAL TESTING ACT***

The Town of Canandaigua Controlled Substances and Alcohol Testing Policy complies with the regulations established by the federal Department of Transportation pursuant to the Omnibus Transportation Employee Testing Act of 1991, Controlled Substances and Alcohol Use and Testing, as amended. All tests will be administered in accordance with this policy and applicable federal regulations. The Clearinghouse rule requires employers to report to the Clearinghouse information related to violations of the drug and alcohol regulations in 49 Code of Federal Regulations, Parts 40 and 382 by current and prospective employees. Employers will be required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle (CMV) on public roads. Employers, in addition, are required to query the Clearinghouse for each driver they currently employ on an ongoing basis. Current and prospective employees are required to complete two hours of training on alcohol misuse and controlled substances use.

## ***COVERAGE***

The Town of Canandaigua Controlled Substances and Alcohol Testing Policy applies to all employees who operate a commercial motor vehicle and are subject to federal CDL requirements as defined in Chapter 2. This includes, but is not limited to, full-time, part-time, casual, intermittent, or occasional employees; leased employees; and independent, owner-operator contractors who are either directly employed by, or under lease to, the Town of Canandaigua or who operate a commercial motor vehicle at the direction of, or with the consent of, the Town. All covered employees are required to participate in the Town's substance testing program as a condition of employment.

## ***EDUCATION***

The Town of Canandaigua will provide educational materials that explain the requirements of the federal regulations and the Town of Canandaigua's policies and procedures with respect to meeting these requirements. This manual includes information on the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or controlled substances problem; and available methods of intervening when an alcohol or controlled substances problem is suspected, including referral to any employee assistance program, and/or referral to management.

## ***PROHIBITED CONDUCT***

In accordance with the federal regulations, the following activities are prohibited:

**1. Alcohol** – A covered employee is prohibited from engaging in any of the following activities:

- a) Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- b) Being on duty or operating a commercial motor vehicle while the employee possesses alcohol unless the alcohol is manifested or transported as part of a shipment. This includes the possession of medicines containing alcohol, (prescription or over-the-counter) unless the packaging seal is unbroken.
- c) Using alcohol while performing safety-sensitive functions.
- d) Using alcohol within four hours preceding the performance of safety sensitive functions.
- e) Refusing to submit to an alcohol test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements \*
- f) If required to submit to a post-accident alcohol test, the employee is prohibited from using alcohol during eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.

**2. Controlled Substances** – A covered employee is prohibited from engaging in any of the following activities:

- a) Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when an 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.
- b) Reporting for duty, remaining on duty, or performing safety-sensitive functions if the employee tests positive for controlled substances.
- c) Refusing to submit to a controlled substance test required by post-accident, random, reasonable suspicion, return-to-duty, or follow-up testing requirements.\*

**\*Refusal to Take an Alcohol or Controlled Substance Test** – Refusal to take any required alcohol or controlled substance test is considered to be a positive test. As stated by the federal regulations, *Refuse to take an Alcohol or Controlled Substance Test* means that an employee:

- 1) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA;
- 2) Fails to remain at the testing site until the testing process is complete;\*
- 3) Fails to provide a urine specimen for any drug test, or fails to provide an adequate amount of saliva or breath for any alcohol test, required by 49 CFR Part 40, as amended, or DOT agency regulations (provided that a physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure to provide a sufficient breath specimen);\*

- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee's provision of a specimen;
  - 5) Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
  - 6) Fails or declines to take a second test the employer or collector has directed the employee to take;
  - 7) Fails to sign the certification at Step 2 of the DOT Alcohol Testing Form (ATF);
  - 8) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by a Designated Employer Representative (DER). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
  - 9) Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets or wash hands when so directed by the collector) or behaves in a confrontational way that disrupts the collection process, or fails to wash hands after being directed to do so by the collector);
  - 10) Fails to follow the observer's instructions during an observed collection, including failing to raise clothing above the waist to just above the navel, lower clothing and underpants to mid-thigh, or to turn around so that the observer can determine if there is a prosthetic or other device that could be used to interfere with the collection process;
  - 11) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
  - 12) Admits to the collector that the specimen has been adulterated or substituted; or
  - 13) Is reported by the MRO as having a verified adulterated or substituted test result.
- \* This does not apply to an applicant/employee who leaves the testing site before the testing process for pre-employment/pre-duty testing begins.

## **CONSEQUENCES FOR ENGAGING IN PROHIBITED CONDUCT**

In accordance with the federal regulations, the consequences for engaging in prohibited conduct are summarized below. In addition to these consequences, a covered employee who engages in prohibited conduct will be subject to appropriate disciplinary action (refer to the Disciplinary Action section below).

### **1. Removal from Safety-Sensitive Functions**

An employee who has engaged in prohibited conduct will not perform or be permitted to perform safety-sensitive functions as defined in Chapter Two.

### **2. Referral, Evaluation and Treatment**

An employee who has engaged in prohibited conduct will be advised of the resources available in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses and telephone numbers of SAPs and counseling and treatment facilities;

Additionally, if it is determined that an employee who has engaged in prohibited conduct will be allowed to return to duty requiring the performance of a safety-sensitive function, such employee must:

- a) be evaluated by a SAP who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use. The SAP must, at a minimum, recommend education when an employee tests positive. Education recommendations can include, but are not limited to, bona fide drug and alcohol education courses, self-help groups, and community lectures.
- b) 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.
- c) be subject to a follow-up evaluation with the SAP prior to performing safety-sensitive functions to determine if the covered employee has successfully complied with the SAP's initial assessment and evaluation recommendations.
- d) be subject to unannounced follow-up alcohol and controlled substances tests administered by the Town of Canandaigua following the employee's return to duty. The number and frequency of such follow-up testing will be as directed by the SAP and consist of at least six tests in the first twelve months following the return to duty. The Town of Canandaigua may direct the employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary. Follow-up testing shall not exceed sixty months from the date of the return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.
- e) Participate in continuing education and/or treatment, in addition to follow-up substance testing, if recommended by the SAP to assist the covered employee in maintaining sobriety or abstinence from drug use.

## **DISCIPLINARY ACTION**

Independent of the requirements of the Omnibus Transportation Act of 1991 and the regulations promulgated thereunder, an employee who has been found to have violated the prohibited conduct under either the Town of Canandaigua Drug-Free Workplace Policy or Town of Canandaigua Controlled Substances and Alcohol Testing Policy will be subject to appropriate disciplinary action.

The following disciplinary action has been established by the Town of Canandaigua. Such disciplinary action is separate and apart from the consequences required under the federal regulations (refer to Consequences for Engaging in Prohibited Behavior above).

The Town of Canandaigua reserves the right to bypass any progressive discipline step in those cases involving an accident<sup>1</sup> or any other work-related accident or injury, where the employee tests positive for drug or alcohol use. In such cases, the Town of Canandaigua shall determine the appropriate disciplinary action to be taken, up to and including termination of employment.

The use of progressive discipline is discretionary. The Town reserves the right to deviate from the disciplinary steps outlined below at its sole discretion and to determine the appropriate disciplinary action to be taken for any employee who violates the Substance Testing Policy, up to and including immediate termination of employment.

**The disciplinary procedures prescribed in Civil Service Law Section 75 shall apply in those instances in which the Town of Canandaigua takes disciplinary action against an employee covered by Civil Service Law Section 75 for policy violations.**

### **1. First Positive Drug or Alcohol Test**

An employee who receives either a first verified positive drug test result or a first alcohol concentration test result greater than or equal to 0.04 shall be required to leave the work-site and shall be suspended for thirty (30) calendar days without pay. The employee shall be allowed to use accrued vacation, personal, and sick leave, if any, during the period of suspension. The Town of Canandaigua shall continue the employee's health insurance during the period of suspension, if applicable.

### **2. Second Positive Drug or Alcohol Test**

An employee who receives either a second verified positive drug test result or a second alcohol concentration test result greater than or equal to 0.04 shall be required to leave the work-site and shall be terminated from employment.

### **3. Alcohol Concentration Greater than or Equal to 0.02 but Less than 0.04**

An employee with an alcohol concentration test result greater than or equal to 0.02, but less than 0.04, shall not be permitted to drive any Town owned motor vehicle or perform any other safety-sensitive functions for the Town of Canandaigua until the next scheduled work period, providing that twenty-four hours have elapsed. The employee shall be required to leave the work-site and shall be suspended without pay for twenty-four (24) hours. The employee must wait until the start of the shift following the twenty-four hour suspension before being allowed to return to work. All time leading up to that point shall be unpaid. Any employee who has a second alcohol concentration test result greater than or equal to 0.02, but less than 0.04, shall be subject to further disciplinary action, up to and including termination of employment.

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<sup>1</sup> As defined in Chapter 2 of this policy.

#### **4. Refusal to Submit to an Alcohol or Controlled Substance Test**

An employee may not refuse to submit to a post-accident alcohol or controlled substance test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substance test, or a follow-up alcohol or controlled substance test. **An employee who refuses to submit to an alcohol or controlled substance test shall be required to leave the work-site and shall be terminated from employment.** (Refer to Prohibited Conduct section for the definition of “*Refuse to submit to an Alcohol or Controlled Substance Test*”.)

#### **5. Further Violations**

An employee shall be subject to further and additional discipline, up to and including termination, upon failure to adhere to the SAP’s recommended treatment plan and/or upon failure to return to work after a thirty calendar day suspension.

### **REQUIRED TESTS AND ASSOCIATED COSTS**

The following section describes the types of substance testing that are required under DOT regulations and Town of Canandaigua policy.

Independent of the requirements of the Omnibus Transportation Testing Act of 1991 and the regulations promulgated thereunder, payment of costs associated with substance testing is outlined below.

#### **1. Pre-Employment and Pre-Duty Drug Testing (and Testing History)**

The Town of Canandaigua will require all final applicants for covered positions, including positions that require a CDL to operate a commercial motor vehicle, to be tested for the presence of a controlled substance as a pre-qualifying condition to employment. Pre-duty drug testing will be required where an employee transfers from a non-covered position to a covered position. Applicants/employees must receive a verifiable negative drug test result from the MRO before being allowed to perform safety-sensitive functions for the Town of Canandaigua.

All applicants/employees subject to pre-employment/pre-duty drug testing will be notified prior to collection of a urine sample that the sample will be tested for the presence of controlled substances. All applicants/employees to be tested must sign an authorization form consenting to such a test.

##### *Applicant’s Substance Testing History*

After extending a conditional offer of employment to an applicant, the Town must obtain the following information about the applicant’s substance testing history from each of the DOT-regulated employers that the applicant worked for in the previous three years (the three years before the applicant applied for the job):

- 1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- 2) Verified positive drug tests;
- 3) Refusals to be tested (including verified adulterated or substituted drug test results);
- 4) Other violations of DOT agency drug and alcohol testing regulations; and

- 5) If the applicant violated a DOT drug and alcohol regulation, documentation of successful completion of the DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-do-duty process, the information must be obtained from the applicant.

The Town must obtain the applicant's written authorization to obtain this information (**Form – 6**). If the applicant refuses to give the Town written consent to obtain this information, he or she will not be permitted to perform safety-sensitive functions for the Town.

The Town will obtain the required information *before* the applicant performs any safety-sensitive functions, other than initial road testing. If this is not feasible, the required information will be obtained within 30 days after the applicant initially performs safety-sensitive functions. If the Town of Canandaigua makes a good-faith effort to obtain the information from the applicant's previous employer(s) but does not receive it within the 30-day period, the applicant will be allowed to continue to work. The Town will properly document and maintain a record of its good-faith effort to request and obtain the required information.

#### *Pre-Employment Testing Requirements for Casual Drivers*

In the event the Town of Canandaigua uses an individual in a safety sensitive function more than once a year, but does not employ the individual, it must obtain the information specified under *Exception to Pre-Employment Drug Testing* at least once every six months. If the Town cannot verify that the driver is participating in a DOT regulated substance testing program, the driver will be subject to pre-employment drug testing.

#### *Pre-Employment Testing Requirements after a Layoff, Reassignment, or Rehire*

If a covered employee returns to work after a layoff or reassignment during which the employee has not been subject to random testing for more than thirty days or has been employed by another employer, the employee will be subject to pre-employment drug testing.

#### *Exception to Pre-Employment Testing Requirements*

An exception to pre-employment drug testing is allowed if all of the following conditions are met:

- 1) The applicant must have participated in a drug testing program meeting all DOT requirements within the previous thirty days.
- 2) While participating in this program, the applicant must have either been tested for controlled substances in the previous six months, or participated in a random drug testing program during the previous twelve months.
- 3) The applicant's previous employer does not have any records, including records from a prior employer, indicating that the applicant violated Part 382, subpart B of the regulations or the prohibited conduct rules of another DOT agency within the last six months.

To take advantage of this exception, the Town of Canandaigua must contact the previous testing program and obtain the following information prior to allowing the employee to perform safety sensitive functions:

- 1) The name and address of the program, generally the applicant's prior and/or current employer.
- 2) Verification that the applicant participates or participated in the program.



- 3) Verification that the program conforms to the required procedures set forth in 49 CFR Part 382 and Part 40, as amended, of the federal regulations.
- 4) Verification that the applicant is qualified under this rule, including that the applicant has not refused to submit to an alcohol or drug test.
- 5) The date the applicant was last tested for alcohol or drugs.
- 6) The results of any drug or alcohol test administered in the previous six months, and any violations of the alcohol misuse or drug rules.

An applicant must provide his or her written consent for the Town to obtain the above information from the previous testing program.

**The cost of pre-employment and pre-duty drug tests will be paid by the Town of Canandaigua.**

## **2. Reasonable Suspicion Testing**

Federal regulations and the Town's policy require a covered employee to be tested for alcohol and controlled substance use when the employee's conduct gives the Town reasonable suspicion to believe the employee is under the influence of alcohol and/or controlled substances. The covered employee's behavior must be observed by at least one designated supervisor trained in the detection of probable alcohol and/or controlled substances use. Whether reasonable suspicion testing is conducted for alcohol and/or controlled substances, such testing must be based on observations concerning the covered employee's appearance, behavior, speech or body odor.

Reasonable suspicion alcohol testing is authorized only if the required observations are made just before, during or immediately after performing safety-sensitive functions. The mere possession of alcohol does not constitute a need for reasonable suspicion alcohol testing. A covered employee must also inform the appropriate supervisor if the employee has consumed alcohol four hours prior to the starting of the employee's shift. Reasonable suspicion alcohol testing will be conducted no more than two hours after the reasonable suspicion determination has been made, and in any event, within eight hours. However, in the event the testing is not performed within this two hour period, a report will be prepared indicating the reason for not promptly administering the test. In the event the test is not administered within eight hours, the Town of Canandaigua will cease attempts to administer the test and prepare another report indicating the reason for not administering the test.

If a trained supervisor requires a covered employee to undergo a reasonable suspicion alcohol and/or drug test, the employee will be escorted to the collection site by the employee's Department Head or designee.

**The cost of reasonable suspicion tests will be paid by the Town of Canandaigua.**

## **3. Post-Accident Testing**

A post-accident test for alcohol and controlled substances will be administered to each surviving covered employee following an accident as defined in Chapter 2, above, if any of the following qualifying events occurred:

- a) the covered employee was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life.
- b) the covered employee receives a citation under state or local law for a moving violation arising from the accident, if the accident resulted in bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
- c) the covered employee receives a citation under state or local law for a moving violation arising from the accident, if the accident involved:
  - (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - (ii) one or more motor vehicles incurs disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

The covered employee shall remain at the scene or readily available to undergo testing for alcohol and controlled substance use.

A covered employee subject to post-accident testing who leaves the scene of an accident or fails to remain readily available for testing shall be deemed to have refused to submit to testing. Such a refusal will be considered in the same manner as if the employee had an alcohol test result of 0.04 or greater or a verified positive test for controlled substance use.

Nothing herein shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee 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.

All alcohol testing required by this provision will be performed as soon as possible, but not more than eight hours after the time of the accident. If the alcohol test is not administered within two hours of the accident, the DER will prepare a report stating the reason the test was not promptly administered. In the event the alcohol test is not administered within eight hours of the accident, the Town will cease attempts to administer the test and prepare a report stating why the alcohol test was not promptly administered. All controlled substance testing required by these provisions will be performed as soon as practicable after the time of the accident but within thirty-two hours. In the event the controlled substance test is not administered within thirty-two hours, the Town will cease attempts to administer the test and the DER will prepare a report stating the reason why the controlled substance test was not promptly administered.

The following table summarizes when a covered employee is subject to post-accident substance testing:

<b>TYPE OF ACCIDENT INVOLVED</b>	<b>CITATION ISSUED TO THE CDL DRIVER</b>	<b>TEST MUST BE PERFORMED BY EMPLOYER</b>
Human fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

## Post-Accident Testing Conducted by Government Agencies

The Town may use the results of a substance test (breath or blood test for the use of alcohol or a urine test for the use of drugs) that was conducted by federal, state or local officials having independent authority for the test, provided such test conforms to the applicable government testing requirements, and the Town obtains the test results.

**The cost of post-accident tests will be paid by the Town of Canandaigua.**

## **4. Random Testing**

The Town of Canandaigua will implement a random process to select and request a covered employee be tested for both the use of alcohol and controlled substances. The Town will ensure that all random alcohol and drug tests are unannounced and that the dates for administering such random tests are spread reasonably throughout the calendar year. The minimum number of tests administered will equal fifty percent (50%) drug testing and ten percent (10%) alcohol testing of the total number of covered employees eligible to receive them.

The selection of covered employees for random alcohol and drug testing will be made by scientifically valid method. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made, without elimination. Consequently, an employee may not be selected at all over the course of the year or an employee may be selected several times.

Each covered employee who is notified of selection for random alcohol and/or drug testing must proceed to the collection site immediately, or, if the employee is performing a safety sensitive function at the time of notification, the employee must cease to perform the safety sensitive function and proceed to the collection site as soon as possible.

A covered employee will only be tested for *alcohol* either while performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions.

**The cost of random tests will be paid by the Town of Canandaigua.**

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

A covered employee who returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct concerning alcohol must undergo a "return-to-duty" alcohol test with a result indicating an alcohol concentration of less than 0.02.

A covered employee who returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct concerning controlled substances must undergo a "return-to-duty" controlled substances test with a result indicating a verified negative result for controlled substances use.

In addition, the employee must be evaluated again by a SAP to determine whether the employee has successfully complied with any rehabilitation program prescribed following the initial evaluation.

**The cost of return-to-duty tests will be paid by the employee.**

## 6. Follow-up Testing

A covered employee who returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct concerning either controlled substances or alcohol must undergo unannounced "follow-up" alcohol and controlled substance tests administered by the Town of Canandaigua.

The number and frequency of such follow-up testing will be as directed by the SAP and consist of at least six tests in the first twelve months following the return to duty. The Town of Canandaigua may direct the employee to undergo follow-up testing for both alcohol and controlled substances if the SAP determines that follow-up testing for both alcohol and controlled substances is necessary.

Follow-up alcohol testing will be conducted only when the covered employee is either performing safety-sensitive functions, just before performing safety sensitive functions, or immediately following the performance of safety-sensitive functions.

**The cost of all follow-up tests will be paid by the employee.**

## 7. Split Specimen Controlled Substance Test

Each urine specimen will be subdivided into two bottles, one labeled as a "primary" and the other as a "split" specimen. Both bottles will be sent to a laboratory. Only the primary specimen will be opened and used for the urinalysis. The split specimen bottle will remain sealed and stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the MRO will notify the applicant/employee that he/she has 72 hours to make a verbal or written request to have the split specimen sent to another SAMHSA certified laboratory for analysis.

If an applicant/employee fails to request a test of the split specimen within 72 hours, the MRO will verify and report the test result to the DER. The applicant/employee will be granted 60 days from the date of the verification to provide the MRO with documentation that serious injury, illness, lack of notice of the test result, inability to contact the MRO, etc., prevented him/her from making a timely request to have the split specimen tested. If the MRO determines there was a legitimate reason for the applicant's/employee's failure to meet the 72 hour deadline based on the information presented, the MRO will direct the test of the split specimen.

If the laboratory determines that the primary specimen may have been adulterated or substituted, the MRO will review the test results to determine if there is a legitimate medical explanation for the results.

The MRO will review laboratory confirmed positive, adulterated, substituted and invalid test results to determine if there are any fatal or correctable errors that may require the test to be cancelled, or in the case of adulterated or substituted test results, to determine if there is a legitimate medical explanation for such results.

The Town shall not refuse or delay an employee's request for analysis of the split specimen for any reason except an invalid test result, provided such request is made in accordance with the requirements set forth above. In accordance with the DOT regulations, the employee will not be granted the right to split specimen testing when there is an invalid test result.

**The cost of any split specimen test requested by the employee must be paid for by the employee. However, if the split specimen test result is negative, the Town of Canandaigua will pay for the test.**

## **TESTING PROCEDURES**

The following is an overview of the procedures that an employee should expect to follow during the testing process.

### *Procedure for Drug Testing*

When an employee is notified by the DER or designee to report to the collection site for drug testing, the following steps will normally take place:

1. The employee is required to report to the collection site as soon as possible. Refusal to report to the collection site or failing to cooperate with the collection process is considered a “refusal to test” (see definition of a refusal earlier in this chapter).
2. The employee must provide appropriate identification upon arrival at the collection site.

Acceptable forms of identification include:

- a) Photo identification, such as a driver’s license, employee badge issued by the Town, or any other picture identification issued by a government agency; or
  - b) Identification by an employer or employer representative.
3. All excessive garments and personal belongings (e.g., coat, bag, purse), except for an employee’s wallet, must be turned in to the collection site for safekeeping until after the testing process has been completed. The specimen collector may ask the employee to empty his or her pockets and display all items to ensure that nothing is present that could be used to adulterate the specimen.
  4. The employee will be advised to wash and dry his or her hands.
  5. The specimen collector will allow the employee to select an individually wrapped or sealed collection container or the employee will be allowed to observe the specimen collector select the collection container.
  6. The employee will be given the specimen container and advised to enter the bathroom (or room used for urination) to provide a specimen. The specimen collector will advise the employee that at least 45 ml of urine is required and that the temperature will be taken to ensure the sample’s integrity.
  7. After exiting the bathroom, the specimen should be given to the specimen collector. If the specimen fails to meet sufficient volume or falls outside the acceptable temperature range, the specimen collector will require the employee to provide a second specimen.

If the first specimen was less than 45 ml, the specimen collector will discard the first specimen and instruct the employee to drink not more than 48 ounces of fluids during a period of up to three hours. The employee will then be asked to provide a new urine sample in a fresh collection container. If the employee is still unable to provide an adequate specimen, the testing will be discontinued and the specimen collector will contact the DER. The MRO will refer the employee for a medical evaluation to determine if the inability to provide a specimen is genuine or constitutes a refusal to test.

If the reason the second specimen is required is due to the initial specimen falling out of the acceptable temperature range, the second collection will be by direct observation.

8. The employee is allowed and encouraged to observe the specimen collector pour the required amount of urine into the specimen bottles, place the tamper-evident seals on the bottles, and label them accordingly. The employee will then be asked to initial the labels to verify that the specimen is the employee's.
9. The specimen collector and the employee must sign the appropriate certification statements on the Custody Control Form (CCF) to confirm authenticity of the information provided and the integrity of the collection process. The employee will be asked to read, sign, and date the CCF and provide his or her date of birth, printed name, and telephone number.
10. The specimen will be sent to an approved laboratory for analysis and the results will be reported to the MRO. If the results are positive, the MRO will attempt to contact the employee via telephone to give the employee the opportunity to discuss the test result and submit information demonstrating authorized use of the controlled substance in question.
11. The MRO will verify the test result to the DER as either:
  - a) Negative;
  - b) Cancelled; or
  - c) Positive and/or refusal to test because of adulteration or substitution.

*Direct Observation Collections* – Urine specimens are normally collected in private. The Town will direct an immediate collection under direct observation with no advance notice to the employee if:

1. A return-to-duty test is required.
2. A follow-up test is required.
3. The collection site determines that the employee's specimen was invalid and the MRO notifies the Town that there is no adequate medical explanation for the result;
4. The MRO notifies the Town that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed (e.g., a split specimen was not collected, is missing, or was destroyed in transit).
5. The MRO reports a negative dilute test result with a creatinine concentration greater than or equal to 2mg/dl but less than or equal to 5 mg/dl.
6. The employee attempts to tamper with his or her specimen at the collection site. Examples include, but are not limited to:
  - a) The temperature of the specimen is out of the accepted temperature range of 90 – 100 degrees F;
  - b) The specimen has an unusual color, odor, or characteristic;
  - c) The collector finds an item in the employee's pocket or wallet which appears to be brought to the collection site to contaminate a specimen; or
  - d) The collector notes employee conduct that suggests tampering.

*Procedure for Direct Observation Collections* – When an employee is subject to an observed collection, the observer must be the same gender as the employee. If the collector and the observer are not the same person, the collector must instruct the observer to check the employee for prosthetic or other devices that are designed to carry “clean” urine and urine substitutes and to watch the employee urinate into the collection container.

During a direct observation collection, the following steps normally occur:

1. The observer will require the employee to raise his or her shirt, blouse, or dress/skirt above the waist, just above the navel.
2. The observer will require the employee to lower clothing and underpants to mid-thigh.
3. The employee will be required to turn around to show the observer that he or she does not have a prosthetic device.
4. If no prosthetic or other device is found, the employee will be permitted to return clothing to its proper position and the observed collection will continue. The observer will then watch the urine go from the employee’s body into the collection container and watch the employee take the specimen to the collector, who will complete the collection process.
5. If the observer finds a device, the collector must immediately be notified. The collector will stop the collection and thoroughly document the circumstances surrounding the event in the remarks section of the CCF. The collector must then notify the DER. This will be considered a refusal to test.

#### *Procedure for Alcohol Testing*

When an employee is notified by the DER or designee to report to the collection site for alcohol testing, the following steps normally take place:

1. The employee is required to report to the collection site as soon as possible. Refusal to report to the collection site or failing to cooperate with the collection process is considered a “refusal to test” (see definition of a refusal earlier in this chapter).
2. The employee must provide appropriate identification upon arrival at the collection site.

Acceptable forms of identification include:

- a) Photo identification, such as a driver’s license, employee badge issued by the Town, or any other picture identification issued by a government agency; or
  - b) Identification by an employer or employer representative.
3. The Breath Alcohol Technician (BAT) will explain the testing procedures. The BAT and the employee must complete, date, and sign the Alcohol Testing Form (ATF) verifying that the employee is present and is providing a breath sample.
  4. The BAT will open an individually sealed, disposable mouthpiece and attach it to the EBT while the employee watches. (For screening tests, air blanks are not required.)
  5. The BAT will instruct the employee to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. The BAT must show the employee the result of the test, either as a printout or as displayed on the EBT.

6. If the screening test shows an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to the Town as negative.
7. If the screening test shows an alcohol concentration of 0.02 or greater, the BAT will conduct a confirmation test at least 15 minutes but not more than 30 minutes after the completion of the initial test.
8. The BAT will instruct the employee that he should not eat, drink, put any object or substance in his or her mouth, or burp (to the extent possible) until the confirmation test is performed. The BAT will inform the employee that the test will be conducted at the end of the waiting period even if the employee does not follow these instructions.
9. The BAT will sign and date the form. The employee will sign and date the certification statement. The certification statement notifies the employee that he or she cannot perform safety-sensitive functions or operate a motor vehicle if the results are 0.02 or greater. If the results are 0.04 or greater, the employee must be removed from his or her driving duties and attendant safety-sensitive functions and be evaluated by an SAP. The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamper-evident tape (unless the results are printed directly on the form).
10. The test results will be provided to the Town in a confidential manner. The BAT will notify the DER immediately if the employee must be removed from safety-sensitive functions.

*Incomplete Test* – If a screening or confirmation test cannot be completed, the BAT will attempt a new test using a new alcohol testing form with a new sequential test number. An employee's refusal to complete and sign the alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the collection process will be noted on the form and the test will be terminated.

If the employee attempts and fails to provide an adequate amount of breath, the BAT will note this on the form and immediately inform the DER. The DER will ask the employee to obtain an evaluation from a licensed health care provider concerning his or her medical ability to provide an adequate amount of breath. This evaluation should take place as soon as practical after the attempted breath test. If the health care provider indicates that there was a valid medical reason, the employee's failure to provide an adequate amount of breath will not be considered a refusal. If the health care provider determines there was no valid medical reason, the inadequate amount of breath will be considered a refusal to take the test.

## **TEST RESULTS**

*Drug Testing Result Categories* – Laboratories must report the test results of each primary urine specimen for drug testing. The result of each primary specimen will fall into one of the following three categories:

### Category 1: Negative Results

- a) Negative; or
- b) Negative dilute, with numerical values for creatinine and specific gravity.

### Category 2: Non-Negative Results

- a. Positive, with drug(s)/metabolite(s) noted;



- b. Positive-dilute, with drug(s)/metabolite(s) noted, with numerical values for creatinine and specific gravity;
- b) Adulterated, with adulterant(s) noted, with confirmatory test values (when applicable), and with remark(s);
- c) Substituted, with confirmatory test values for creatinine and specific gravity; or
- d) Invalid result, with remark(s).

### Category 3: Rejected for Testing

- a) Rejected for testing, with remark(s).

The laboratory will always report the actual test result to the MRO rather than indicate one of the above categories.

*Negative Dilute Test Result* – If an employee receives a negative dilute test result, a recollection under direct observation will be required. If an employee receives a second negative dilute test result, the MRO must review the CCF to ensure there is documentation that the recollection was directly observed. If the recollection was directly observed, the MRO must report a negative dilute test result to the DER. If the recollection was not directly observed as required, the MRO must not report a test result to the DER but instead request an immediate recollection under direct observation.

*Invalid Test Results* – When an invalid test result is received, the MRO and laboratory must determine if the primary specimen should be tested at another laboratory. If it is determined that no further testing is necessary, the MRO must contact the employee to inform him or her that the specimen was invalid and to inquire about any medications the employee may have taken to determine if there is a medical explanation for the invalid result.

If the employee admits to using a drug, the MRO must prepare and sign a statement of the employee's admission and then report such admission to the DER for appropriate action. The test will be reported as cancelled with the reason noted.

If the result of the employee's recollection is a second invalid test for the same or different reason than as reported for the first specimen, the MRO must review the CCF to ensure there is documentation that the recollection was directly observed. If the recollection was directly observed, the MRO must report to the DER that the employee had another specimen with an invalid result for the same or different reason. If the recollection was not directly observed as required, the MRO must not report a test result to the DER but instead request an immediate recollection under direct observation.

If the result of the employee's recollection is an invalid test in conjunction with a positive, adulterated, and/or substituted result and the MRO verifies any of those results as being a positive and/or refusal to test, the MRO should not report the invalid result to the DER unless the split specimen fails to reconfirm the result(s) of the primary specimen.

If a negative or valid test result is required, the MRO must determine if there is clinical evidence that the employee is currently an illicit drug user by personally conducting, or causing to be conducted, a medical evaluation of the employee by a licensed physician. In addition, if appropriate, the MRO may also consult with the employee's physician to gather information needed to reach this determination. If the medical evaluation reveals no clinical evidence of drug use, the MRO must report a negative test result to the DER with written notations regarding the medical examination, why the medical exam was required, and the reason(s) for determining that no signs and symptoms of drug use exist. If the medical evaluation reveals clinical evidence of drug use, the MRO must report a cancelled test result to the DER with

written notations regarding the results of the medical examination, why the medical exam was required, and the reason(s) for determining that signs and symptoms of drug use exist. Because this is a cancelled test, it does not serve the purpose of an actual negative test result (i.e., the Town is not authorized to allow the employee to begin or resume performing safety sensitive functions, because a negative test result is needed for that purpose).

*Changing a Verified Test Result* – An MRO may change a verified test result only if a verification is reopened because it was done without interviewing the employee.

*Cancelled Test Results* – A drug test will be cancelled if any of the following occur:

- 1) The laboratory reports that the split specimen failed to reconfirm all of the primary specimen results because the drug(s)/drug metabolite(s) were not detected; adulteration criteria were not met; and/or substitution criteria were not met. No recollection is required unless the split specimen creatinine concentration for a substituted primary specimen was between 2-5 mg/dL, or the primary specimen had an invalid result which was not reported to the DER.
- 2) The laboratory reports that the split specimen failed to reconfirm all of the primary specimen results and that the split specimen was invalid. Recollection under direct observation is required.
- 3) The laboratory reports that the split specimen failed to reconfirm all of the primary specimen results because the split specimen was not available for testing or there was no split laboratory available to test the specimen. Recollection under direct observation is required.

## ***SUBSTANCE TESTING AND PAID TIME***

Under the independent authority of the Town of Canandaigua, an employee will be paid for all time pertaining to substance testing. This includes traveling to and from the collection site. Such time will be considered as time worked for the purpose of calculating overtime and employee benefits.

## ***SUBSTANCES FOR WHICH TESTS ARE ADMINISTERED***

Testing is done for the presence of alcohol and the following five controlled substances, as specified by DOT regulations and the Town of Canandaigua's policy:

1. Marijuana
2. Cocaine
3. Opiates
4. Amphetamines
5. Phencyclidine (PCP)

## ***NOTIFICATION OF TESTING REQUIREMENTS AND RESULTS***

Applicants – Applicants subject to pre-employment drug testing and employees subject to pre-duty testing will be notified of the drug testing requirement on the Town of Canandaigua's *Application for Employment Form* and at the time a conditional job offer is made. The applicant/employee will be required to sign the required testing consent form (**FORM-6**). The Town will notify an

applicant/employee of the results of a pre-employment/pre-duty drug test if the applicant/employee requests such results within sixty days of being notified of the employment decision.

The Town of Canandaigua will not provide rehabilitation for a disqualified applicant who tests positive for drugs.

Employees – The Town of Canandaigua will notify a covered employee of the results of random, reasonable suspicion, post-accident, return-to-duty, and follow-up drug and alcohol tests when the test results are positive. For drug tests, the MRO will also notify the covered employee what substance was discovered.

## ***MEDICAL REVIEW OFFICER***

The Medical Review Officer's (MRO's) function is to review, interpret and report the positive and negative test results of covered applicants and covered employees. The MRO will report results to the DER who will take the required administrative action on positive test results.

As a general rule, the MRO will report only whether a particular test result was positive or negative. However, Part 40 regulations require that the MRO provide to authorized third parties, including the Town, any medical information given by the employee during the verification process that would have an affect on the performance of safety-sensitive functions. Such medical information includes information on medications or other substances affecting the performance of safety-sensitive duties that the employee reports using or medical conditions the employee reports having. This notification does not require employee consent.

## ***SUBSTANCE ABUSE PROFESSIONAL***

Evaluations and rehabilitation will be provided by a by a Substance Abuse Professional (SAP) selected by the Town of Canandaigua. The SAP must possess specific credentials and must meet basic knowledge, qualification training, and continuing education requirements as set forth in the regulations.

The Town of Canandaigua will require that the SAP who determines that an employee requires assistance in resolving problems with alcohol misuse or controlled substances use refers the employee to an appropriate education and/or treatment program. The SAP is prohibited from referring the employee to the SAP's private practice or to a person or organization from which the SAP receives remuneration or in which the SAP has a financial interest. This does not prohibit a SAP from referring an employee for assistance provided through: a public agency, such as a state or county; the employer or a person under contract to provide treatment for alcohol or controlled substances problems on behalf of the Town of Canandaigua; the sole source of therapeutically appropriate treatment under the employee's health insurance program, or the sole source of therapeutically appropriate treatment reasonably available to the employee (e.g., the only treatment facility or education program reasonably located within the general commuting area). The requirements herein with respect to referral, evaluation, and rehabilitation do not apply to applicants who refuse to submit to a pre-employment controlled substances test.

The Town of Canandaigua will arrange for a SAP to evaluate, determine the type of assistance needed, and direct the number and frequency of follow-up alcohol and/or controlled substance tests required for those employees who engage in the prohibited conduct as set forth in Chapter 3 above.

## **VERIFICATION OF SUBSTANCE TESTING HISTORY**

After offering an applicant a conditional offer of employment for a covered position, the Town of Canandaigua will conduct research on the applicant's substance testing history. This requirement also applies to a Town employee in a non-covered position who receives a conditional job offer for a covered position. The applicant/employee will be required to complete and sign the appropriate authorization form (**FORM-5**) with the names of all organizations that employed the applicant/employee during the previous three years so that the Town may contact them.

The information to be obtained from previous employers includes the applicant's/employee's history of testing positive for alcohol and controlled substances, any refusals to be tested, any other violations of the DOT regulations, and documentation of the individual's successful completion of return-to-duty and follow-up testing if he/she received a positive test result. If the previous employer does not have documentation of the return-to-duty and follow-up testing, the Town will request this documentation from the applicant/employee.

In addition, the applicant/employee will be required to complete and sign a form (**FORM-7**) indicating whether he/she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past three years.

The Town will obtain and review this information prior to the first time an applicant/employee performs any safety-sensitive functions. If this is not feasible, the information will be obtained and reviewed no later than 14 calendar days after the first time safety-sensitive functions are performed.

If an applicant's previous employer is no longer in business or refuses to provide the applicant's substance testing history, or if for some other reason the Town is unable to obtain the testing information, the Town will document the attempts taken to contact the previous employer and any other relevant facts.

In the event the applicant admits having had a positive test or a refusal to test in the past three years or the Town obtains information that the applicant/employee had received a positive alcohol or drug test or refused to submit to such testing, the Town will not consider the applicant/employee for employment in a covered position without proof that the applicant/employee has successfully completed DOT return-to-duty requirements, including the following:

- a) evaluation and a letter of compliance from a SAP;
- b) treatment, if any, received;
- c) return-to-duty tests; and
- d) follow-up testing.

If the applicant has not had a return-to-duty test after obtaining a letter of compliance from a SAP, the Town will conduct a pre-employment drug test and an alcohol test. These tests will satisfy the return-to-duty testing requirements, so long as the drug test is negative and the alcohol test result is less than 0.02. The Town will also be responsible for conducting at least six follow-up tests within the first 12 months of the person's employment.

## **CONFIDENTIALITY**

Except as otherwise required by law or expressly authorized or required by federal regulations, all Town of Canandaigua personnel will treat as highly confidential all information and documentation regarding alcohol and controlled substance testing. Only authorized personnel will have access to testing information and documentation.

Authorized personnel having access to testing information shall not discuss, photocopy, duplicate or reveal in any form to anyone inside or outside of the Town of Canandaigua, unless authorized by law. Any violation in any manner of this information may be grounds for disciplinary action.

Laboratories and their personnel will maintain alcohol and controlled substance test records in confidence.

All information and documentation maintained by the Town of Canandaigua regarding a given employee's alcohol and controlled substance testing will be maintained in a separate file apart from the employee's personnel file. For security purposes, these files will be locked at all times.

### *Release of Substance Testing Information by the Town*

Upon written request from a covered employee, the Town will promptly provide the employee with copies of any records pertaining to the employee's use of alcohol or controlled substances, including any records pertaining to substance testing.

A covered employee must give his/her specific written consent before the Town will release individual test results or medical information to a third party that is not explicitly authorized under the regulations to receive such information.

In accordance with the regulations, an employee's test information may be released without the employee's consent in the event of legal proceedings, grievances, or administrative proceedings initiated by or on the employee's behalf, which resulted from a positive, adulterated, or substituted test result, or a refusal to test. This includes, but is not limited to, workers' compensation, unemployment insurance, and other proceedings relating to a benefit sought by the employee. In addition, the Town may disclose information in criminal or civil actions in accordance with DOT regulations. When such information is released, the Town will notify the employee in writing.

### *Release of Medical Information by the MRO*

The MRO generally only reports to the DER whether a particular test result was positive or negative. The MRO is generally prohibited from communicating further information to the DER or a third party unless the applicant or covered employee signs a release allowing the MRO to disclose such information.

However, the regulations require the MRO to report to authorized third parties the drug testing results and medical information learned as part of the verification process if, in the MRO's reasonable medical judgment, he or she determines that the employee is medically unqualified to perform safety-sensitive duties under the applicable DOT regulation or the employee's continued performance poses a significant safety risk. Authorized third parties include the Town, a doctor or other health care provider responsible for the medical qualification of the employee, a SAP, or a DOT agency. Medical information that the MRO may report to authorized third parties includes information on medications or other substances affecting the performance of safety-sensitive duties that the employee reports using or medical conditions the employee reports having. *This notification does not require employee consent.*

# CHAPTER 4 – COLLECTION SITE AND LABORATORY GUIDELINES

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## **COLLECTION SITE GUIDELINES**

The Town of Canandaigua will designate a collection site where employees are to provide urine specimens for drug testing procedures and an Evidential Breath Testing (EBT) device to test the alcohol concentration. Each designated collection site will have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping of urine specimens to the Department of Health and Human Services and Substance Abuse and Mental Health Services Administration certified drug testing laboratory.

The designated collection site may be any suitable location where a specimen can be collected under conditions established by the federal regulations. At a minimum, the collection site will provide:

- a) Security at all times during specimen collection for alcohol and drug testing to ensure integrity of specimen.
- b) An enclosure where private urination may occur.
- c) A toilet for completion of urination.
- d) Water for washing hands.
- e) A suitable clean surface for writing.

The entire collection process will be governed by and performed in accordance with the requirements set forth in Part 40 regulations, as amended.

## **LABORATORY GUIDELINES**

### **1. Alcohol**

For the testing of alcohol, if the initial alcohol concentration is 0.02 or greater, a second confirmation test is required using a federally calibrated Evidential Breath Testing (EBT) device.

### **2. Controlled Substances**

Laboratories that conduct controlled substance testing must be certified by the *Substance Abuse and Mental Health Services Administration*. Such laboratories will conduct the initial screen for controlled substances in the form of a urinalysis. Where the initial screen indicates the presence of a controlled substance (positive result), a confirmation test will be done on the same specimen using the gas chromatography/mass spectrometry (GC/MS) methods.

*Substance Abuse and Mental Health Services Administration* certified laboratories will have a quality assurance program that assures:

- a) Proper reporting procedures.
- b) Maintenance of acceptable controls and standards.
- c) Maintenance of quality control testing.
- d) Validity, reliability, accuracy, precision and performance characteristics of each test.

## ***BLIND SAMPLES***

To guarantee quality assurance and quality control of the laboratories involved in performing drug tests for the Town of Canandaigua, a certain percentage of blind performance test specimens will be submitted to the laboratory in accordance with the applicable regulations.

## ***SPECIMEN VALIDITY TESTING***

Laboratories will conduct specimen validity testing on all urine specimens to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

## ***INITIAL TESTS***

The initial test for controlled substances is the first test performed on the urine specimen of an applicant or employee who is in a non-covered position who is applying for a covered position. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The initial cutoff levels used for determining whether specimens are negative for drugs may be changed by the Department of Health and Human Services (DHHS) as advances in technology or other considerations warrant identification of the tested substances at other concentrations.

If the initial test for alcohol indicates an alcohol concentration of 0.02 or greater, a confirmation test is required using a federally calibrated Evidential Breath Testing (EBT) device.

## ***CONFIRMATION TESTS***

All urine specimens identified as testing positive for one of the five controlled substances will be confirmed by a second test using the GC/MS (gas chromatography/mass spectrometry) technique. The results of this confirmation will be reported directly to the MRO.

If the alcohol concentration is greater than or equal to 0.04 on the confirmation test, then the covered employee has tested positive.

## ***CHAIN OF CUSTODY***

Federal regulations require that all collection site and laboratory personnel use appropriate "Chain of Custody" procedures to preserve the integrity of every specimen. The control and accountability of specimens includes:

- a) Initial receipt at collection site
- b) Identification
- c) Container sealing
- d) Storage
- e) Transportation to laboratory
- f) Opening of specimen at the lab
- g) Testing, reporting results
- h) Additional storage
- i) Final disposition of the specimen

With respect to drug testing, an approved chain of custody form must be used from the time of collection to receipt by the laboratory. Each time a specimen is handled or transferred by collection site and laboratory personnel, an appropriate chain of custody form must account for the sample or sample aliquot, including an entry documenting the date and purpose of the handling or transfer. The laboratory is also required to maintain documents for any specimen that is currently under legal challenge for an indefinite period. All other documentation must generally be kept by the laboratory for two years.

Every individual in the chain of custody will be identified. Two forms of chain of custody documents are used. An "external chain of custody form" or "urine custody and control form" is used to document chain of custody to the laboratory. An "internal chain of custody form" is utilized to document handling and transfer of the original sample container and aliquot within the laboratory. These forms are supplied by the collection site selected by the Town or the collection site's designee.



# CHAPTER 5 – SUPERVISORY TRAINING AND EMPLOYEE COMMUNICATION

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## ***Supervisory Training***

In accordance with the DOT regulations, supervisors (and any person designated to determine whether reasonable suspicion exists to require a covered employee to undergo testing) must receive sixty minutes of training in controlled substances use detection and an additional sixty minutes of training on alcohol misuse detection. The training includes the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. The supervisors will use this training to determine if reasonable suspicion exists to require a covered employee to undergo reasonable suspicion substance testing. The training will address the effects and consequences of alcohol and controlled substance use in personal health, safety, and work environment and behavioral causes that indicate alcohol and controlled substance use or abuse. Each supervisor must sign a Supervisor Training Acknowledgment Form (**FORM-8**) which will be kept on file.

## ***Employee Communication***

An employee who is subject to the provisions of this Controlled Substances and Alcohol Testing Policy will be given a copy of this policy and will be required to sign an Policy Acknowledgement Form (**FORM-9**) indicating their receipt of a copy of the policy, which will be retained in the employee's personnel file.

# CHAPTER 6 – RECORD KEEPING AND REPORTING REQUIREMENTS

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## **RECORD RETENTION**

The Town of Canandaigua will maintain records pertaining to this Controlled Substances and Alcohol Testing Policy in a secure location with controlled access.

**1. The following records will be maintained for five years:**

- a) Records of breath alcohol test results indicating an alcohol concentration greater than or equal to 0.02
- b) Records of verified positive drug test results
- c) Documentation of refusals to take required alcohol and/or drug tests
- d) Calibration documentation of EBT's
- e) Driver evaluation and referrals
- f) Copies of annual calendar year summaries required under the regulations

**2. The following records will be maintained for two years:**

- a) Records related to the collection process
- b) Supervisory/Employee training

**3. The following records will be maintained for one year:**

- a) Negative and canceled drug test results
- b) Breath alcohol tests with concentration of less than 0.02.

## **LOG SHEET**

A Log Sheet must be maintained for each covered employee and stored in a Substance Testing Records file separate and apart from employee's Confidential Personnel File (**FORM-1**).

## **TRACKING AND REPORTING OF RESULTS**

As required by 49 CFR Part 382.403, the Town of Canandaigua will prepare and maintain an annual summary of the results of the alcohol and controlled substance testing programs for each calendar year (**FORM-2**). This summary can also be completed over the internet by accessing the U.S. Department of Transportation Drug and Alcohol MIS Reporting Web Site at <http://damis.dot.gov/>. The Federal Motor Carrier Safety Administration (FMCSA) will randomly select a sample of employers from all employers subject to testing regulations and require them to submit the data. This is extensive and must be prepared by March 15th of each year, regardless of whether the Town of Canandaigua is selected to submit the information to the FMCSA. A consortium may prepare annual calendar year summaries and reports on behalf of the Town of Canandaigua, but the Town of Canandaigua must sign and submit the report and is responsible for ensuring the accuracy and timeliness of the report prepared on its behalf by the consortium.

## ***RECORD KEEPING REQUIREMENTS***

The Town of Canandaigua will maintain an accurate summary of records for each calendar year pertaining to the required alcohol and controlled testing program. These records will be made available to the federal Department of Transportation upon request sixty calendar days after the last day of the year (December 31st).

Specific records and forms that will be maintained by the Town of Canandaigua can be found in Chapter Ten.

## CHAPTER 7– TESTING SERVICES

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The Town of Canandaigua utilizes the following facility to perform all required controlled substances and alcohol testing services:

**HEALTHWORKS**  
**OCCUPATIONAL MEDICINE**

Thompson Medical Center  
1160 Corporate Drive  
Farmington, NY 14425

PHONE: (585) 924-1550

**Procedures if an off-hours (24/7) test is required:**

PHONE: (800) 836-2337 (pager)

Enter pager # 40290, then enter a call back number  
Healthworks off hours coordinator will return call to arrange for test at the  
Thompson Medical Center Emergency Room

If no response from pager within 15-20 minutes, call:  
(585) 905-2076 or the main hospital number (585) 396-6000

# CHAPTER 8 – TREATMENT FACILITIES

In accordance with the Omnibus Transportation Testing Act of 1991, it is not mandatory for the Town to pay for the rehabilitation of an employee who tests positive for the use of alcohol or drugs. However, any counseling, rehabilitation, or treatment programs an employee participates in may be covered services if the employee is a participant in the Town's or another health insurance program. Any additional costs not covered by the health insurance plan are the responsibility of the employee. An employee who is not enrolled in a health insurance plan is responsible for 100% of the cost of these services.

A covered employee's decision to seek prior assistance from a treatment facility will not be used as the basis for disciplinary action. However, the use of such services will not serve as a defense to imposing discipline when a violation of this policy occurs.

A covered employee who has engaged in conduct prohibited by the Town's Substance Testing Policy shall be advised of the resources available in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances. This will include the names, addresses, and telephone numbers of SAPs and counseling, rehabilitation, and treatment programs. Following is a partial list of resources and treatment programs:

Finger Lakes Addictions Counseling and Referral Agency / Alcohol Crisis Center 28 East Main Street Clifton Springs, NY 14432 (315) 462-7070	Clifton Springs Health Center Canandaigua Behavioral Health 35 North Street Canandaigua, NY 14424 (585) 394-0530
Unity Health System/Chemical Dependency Services Crossbridge Office Park, Building #2 2000 Winton Road South Rochester, NY 14618 (585) 368-4719 Intake: (585) 723-7740	Sisters of Charity Hospital Rochester Pathways 435 East Henrietta Road Rochester, NY 14620 (585) 424-6580

Additional Resources include:

- Alcoholics Anonymous - (800) 356-9996
- American Council on Alcoholism – Helpline (800) 527-5433
- Cocaine Hotline - (800) COCAINE
- National Council on Alcoholism - (800) NCA-CALL
- National Institute on Drug Abuse – Hotline (800) 662-HELP
- National Institute on Drug Abuse – Helpline (800) 843-4971

# **CHAPTER 9– SIGNS, SYMPTOMS AND THE EFFECTS OF THE USE OF CONTROLLED SUBSTANCES AND ALCOHOL**

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## **Specific Signs, Symptoms and Effects of Marijuana, Cocaine, Opiates, Amphetamines, Phencyclidine (PCP) and Alcohol**

References for the information for this chapter:

National Safety Council

Blum, Kenneth, "Handbook of Abusable Drugs," NY, Gardner Press, 1984

Department of Health and Human Services, "Alcohol and Health: 7th Special Report to the U.S. Congress," Washington, DC, 1990

Federal Motor Carrier Safety Administration, Office of Motor Carriers, "Guidelines for Implementing the FMCSA Anti-Drug Program," Publication No. FMCSA-MC-91-014, March 1992.

# MARIJUANA FACT SHEET

A crude drug made from the plant cannabis sativa. Marijuana is the most commonly used illicit drug. **1-2 marijuana cigarettes decrease motor skills and reaction times by as much as 63%.**

**Common Names:** grass, dope, pot, reefer, lid, joint, loco weed, Mary Jane, and doobie.

**Paraphernalia:** Plastic bags (commonly used to sell marijuana) cigarette papers, roach clip holders, and small pipes made of bone, brass, or glass are commonly found. Smoking "bongs" (large-bore pipes for inhaling large volumes of smoke) can easily be made from soft drink cans and toilet paper rolls.

**Method of Intake:** Marijuana is usually inhaled in cigarette or pipe smoke. Occasionally, it is added to baking ingredients (e.g., brownies) and ingested. Tetrahydrocannabinol (THC), the active chemical detected in urinalysis, is released by exposure to heat.

**Duration of Single Dose Effect:** The most obvious effects are felt for 4 to 6 hours. Preliminary studies suggest that performance impairment lasts longer. The active chemical, THC, is stored in body fat and slowly metabolized over time.

**Dependency Level:** Evidence indicates moderate psychological dependence.

## Signs and Symptoms of Use Include:

- Appear intoxicated, but has no smell of alcohol
- Appears sleepy or stuporous in the latter stages
- Bongs or water pipes
- Distorted sense of time passage, tendency to over-estimate time intervals
- Excessive laughter or inappropriate happiness
- Forgetfulness in conversation
- Increase in appetite especially after smoking
- Reddened eyes
- Lower alertness levels
- Odor similar to burnt rope on clothing or breath
- Poor retention
- Presence of roach clips (e.g. paper clips, bobby pins, hemostats or tweezers)
- Pupils can be dilated
- Rapid loud talking
- Tendency to drive slowly, below speed limit
- Eye drops and/or sunglasses to hide bloodshot eyes

## Time Detectable in Urine Test:

- Occasional user for up to 1 week
- Chronic user – 3 to 4 weeks

## Effects of Marijuana Use:

### Mental Performance:

Regular use can cause the following effects:

- Delayed decision making
- Erratic cognitive function
- Impaired short-term memory, interfering with learning
- Impaired signal detection (ability to detect a brief flash of light)
- Impaired tracking (ability to follow moving objects with the eyes) and visual distance measurements
- Diminished concentration
- Distortions in time estimation

### Driver Performance:

The mental impairments resulting from the use of marijuana produce reactions that can lead to unsafe and erratic behavior. Thinking and reflexes are slowed, making it hard for drivers to respond to sudden, unexpected events. Also, a driver's ability to "track" (stay in lane) through curves, to brake quickly, and to maintain speed and the proper distance between cars is affected. Research shows that these skills are impaired for at least 4-6 hours after smoking a single marijuana cigarette.

# COCAINE FACT SHEET

A drug extracted from the leaves of the coca plant. Cocaine is a central nervous stimulant and highly addictive. The entire central nervous system is energized. Muscles are more tense, the heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation. **Cocaine is the second most commonly used illicit drug in the United States.**

**Common Names:** coke, snow, tornado, crack and white candy.

**Paraphernalia:** Cocaine hydrochloride—single-edged razor blade, a small mirror or piece of smooth metal; a half straw or metal tube, and a small screw-cap vial or folded paper packet containing the cocaine (used for snorting), needles, tourniquets (used for injecting). Cocaine base—a “crack pipe” (small glass smoking device for vaporizing the crack crystals); a lighter, alcohol lamp, or small butane torch for heating the substance.

**Method of Intake:** Cocaine hydrochloride is snorted into the nose, rubbed on the gums, or injected into the veins. It also can be heated into a liquid and its fumes inhaled through a pipe in a method called "freebasing". Freebasing is also a common method of using a form of cocaine called "crack". Crack resembles small pieces of rock and is often called "rock" on the street.

**Duration of Single Dose Effect:** 1 to 2 hours.

## Signs and Symptoms of Use Include:

- Dilated pupils
- Runny nose, reddened and sore nose, cold or chronic sinus/nasal problems, nosebleeds
- Unexplained bursts of energy
- White powder in container and/or around nose
- Freebasing instruments such as ether, small torch, mixing plates or containers
- Frequent tardiness/absenteeism
- Restlessness, nervousness, irritability
- Needle tracks
- Use or possession of small spoons, straws, razor blades, mirror, vials of white powder
- Burns
- Extreme and uncommon excitability, anxiety or uncontrolled talkativeness
- Respiratory problems
- Isolation
- Long periods without eating or sleeping, likely to be emaciated
- Repetitive and non-purposeful behavior, confusion
- Loss of appetite / weight loss
- Sensation of bugs crawling on skin
- Workplace theft

## Time Detectable in Urine Test:

- 12-48 hours

## Effects of Cocaine Use:

### Mental Performance:

- Paranoia, hallucinations
- Hyperexcitability and overreaction to stimulus
- Difficulty in concentration
- Mood swings
- Depression and disorientation

### Driver Performance:

- Results in an artificial sense of power and control, which leads to a sense of invincibility.
- Lapses in attention and the ignoring of warning signals brought on by cocaine use greatly increase the potential for accidents.
- Paranoia, hallucinations and extreme mood swings make for erratic and unpredictable reactions while driving or operating machinery.



**The high cost of cocaine frequently leads to workplace theft and/or dealing. Forgetfulness, absenteeism, tardiness, and missed assignments can translate into lost business.**

# OPIATES (NARCOTICS) FACT SHEET

Opiates (also called narcotics) are drugs that are used medically to relieve pain, depress body functions and reactions, and, when taken in large doses, cause a strong euphoric feeling. Some opiates come from a resin taken from the seed pod of the Asian Poppy (e.g. opium, morphine, heroin and codeine). Other opiates are synthesized or manufactured.

**Common names:** Horse, smack, Big M, dots, junk, H. morpho, dollies, heroin, opium, morphine and codeine.

**Paraphernalia:** Needles, syringe caps, eyedroppers, bent spoons, bottle caps, and rubber tubing (used in the preparation for and injection of the drug).

**Method of Intake:** Opiates may be taken in pill form, smoked, or injected, depending upon the type of narcotic used.

**Duration of Single Dose Effect:** 3 to 6 hours.

## Signs and Symptoms of Use Include:

- Restlessness
- Mental dullness
- Nausea and vomiting
- Impaired coordination
- Depression and apathy
- Going back and forth from feeling alert to drowsy
- Skin abscesses
- Loss of appetite
- Pinpoint pupils that fail to respond to light
- dermatitis
- Overdose can result in coma and death
- Scars (“tracks”) on inner arms or parts of body from needle injections
- Wearing long sleeves to cover “tracks”
- Slurred speech
- Impaired coordination
- Use or possession of paraphernalia including syringes, bent spoons, bottle caps, eye droppers, rubber tubing, cotton and needles
- Apathy and decreased physical activity
- Chills
- Sweating
- Cramps

## Time Detectable in Urine Test:

- 1-3 days

## Effects of Opiate Use:

### Mental Performance:

- Slowed movement and reflexes
- Wide mood swings
- Depression and apathy
- The high physical and psychological dependence level of opiates compounds the impaired functioning

### Driver Performance:

- Apathy caused by opiates can translate into an “I don’t really care attitude.”
- The physical effects as well as depression, fatigue and slowed reflexes impede the reaction time of the individual, raising the potential for accidents.
- Workplace use may cause impairment of physical and mental functions.
- Side effects such as nausea, vomiting, dizziness, mental clouding, and drowsiness place the user at higher risk for an accident.

# AMPHETAMINES/STIMULANTS FACT SHEET

Amphetamines are central nervous system stimulants that speed up the mind and body. The physical sense of energy at lower doses and the mental exhilaration at higher doses are the reasons for their abuse. In pure form they are yellowish crystals that are manufactured into tablets or capsules.

Amphetamines include three closely related drugs – amphetamine, dextroamphetamine and methamphetamine.

**Common Names:** speed, meth, hearts, crystal, pep pills, bennies, uppers, ups, robin's eggs, peaches, cartwheels, sky-rockets and black beauties.

**Paraphernalia:** Needles, syringes, and rubber tubing for tourniquets, used for the injection method.

**Method of Intake:** The most common forms of amphetamines are pills, tablets, or capsules, which are ingested. The less frequent forms, liquid and powder, are injected or snorted.

**Duration of Single Dose Effect:** 2 to 4 hours.

## Signs and Symptoms of Use Include:

- Dilated pupils
- Sweating
- Decreased appetite
- Blurred vision
- Dizziness
- Dry mouth
- Insomnia
- Use or possession of paraphernalia including bags, vials for storing, syringes, needles
- Confusion
- Panic
- Talkativeness
- Hallucinations
- Anxiety
- Moodiness
- Rapid heartbeat
- Unusual energy, accelerated movements and activities

## Time Detectable in Urine Test:

- 1-2 days

## Effects of Amphetamine/Stimulant Use:

- Mental Performance:**
- Anxiety and restlessness
  - Moodiness
  - False sense of power
  - Large doses over long periods can result in hallucinations, delusions, paranoia, and brain damage.

- Driver Performance:**
- False sense of alertness which can result in risky behavior and increased accidents.
  - Individuals who fail to get sufficient rest may use the drug to increase alertness (e.g., drivers).
  - Low doses of amphetamines will cause a short-term improvement in mental and physical functioning, greater use impairs functioning.
  - The hangover effect is characterized by physical fatigue and depression, which makes operation of equipment or vehicles dangerous.

**Since amphetamines alleviate the sensation of fatigue, they may be abused to increase alertness due to unusual overtime demands or failure to get rest.**

# PHENCYCLIDINE (PCP) FACT SHEET

Phencyclidine was first developed as an anesthetic in the 1950's and taken off the market because it sometimes caused hallucinations. Phencyclidine acts as both a depressant and a hallucinogen, and sometimes as a stimulant. It is abused primarily for its variety of mood-altering effects. Low doses produce sedation and euphoric mood changes. The mood can change rapidly from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare with the eyelids half closed. Sudden noises or physical shocks may cause a "freak-out" in which the person has abnormal strength, extremely violent behavior, and an inability to speak or comprehend communication. Phencyclidine is available in various forms – a white crystal-like powder, a tablet or capsule.

**Common Names:** Angel dust, dust, peace pills, hog, killer weed, mint, monkey dust, supergrass.

**Paraphernalia:** Foil or paper packets; stamps (off which PCP is licked); needles, syringes, and tourniquets (for injection); leafy herbs (for smoking).

**Method of Intake:** In pill, capsule, or tablet form, PCP may be ingested. It is commonly injected as "angel dust." It may be smoked or snorted when applied to leafy materials or combined with marijuana or tobacco.

## Signs and Symptoms of Use Include:

- Dilated or floating pupils
- Rigid muscles
- Drooling
- Profuse sweating
- Decreased sensitivity to pain
- Dizziness
- Drowsiness
- Hallucinations
- Comatose (unresponsive) if large amount consumed; eyes may be open or closed
- Severe disorientation
- Rapid heartbeat
- Anxiety, panic/fear/terror
- Aggressive/violent behavior
- Mask-like facial appearance
- Drunken-like walk, staggering
- Severe confusion and agitation
- Subject to flashbacks
- Poor perception of time and distance, poor judgment

## Time Detectable in Urine Test:

- Occasional use: 1-8 days
- Chronic use: Up to 30 days

## Effects of Phencyclidine Use:

### Mental Performance:

- Irreversible memory loss
- Personality changes
- Thought distortions
- Hallucinations

### Driver Performance:

- Distortions in perception and potential visual and auditory delusions make an individual's performance unpredictable and dangerous.
- PCP use can cause drowsiness, convulsions, paranoia, agitation or coma, which makes operation of equipment or vehicles dangerous.

# ALCOHOL FACT SHEET

Alcohol, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

**Common Names:** booze, brew, shine, hooch, and juice.

**Generic/Chemical Names (Representative):** Beer, wine, distilled spirits or liquor.

**Alternative Sources:** After-shave lotion, cough medicine, antiseptic mouthwash, vanilla extract, disinfectant, room deodorizer fluid, cologne, breath sprays, shaving creams, rubbing alcohol.

**Duration of Single Dose Effect:** Alcohol is fully absorbed into the bloodstream within 30 minutes to 2 hours, depending upon the beverage consumed and associated food intake. The body can metabolize about one quarter of an ounce (0.25 oz.—roughly half the amount in a can of beer) of alcohol per hour.

## Signs and Symptoms of Use Include:

- Absenteeism, particularly at the beginning and end of the week
- Availability and consumption of alcohol becomes the focus of social or professional activities
- Reduction of reflexes
- Difficulty focusing, glazed appearance of the eyes
- Slurred speech
- Facial changes, skin slack and unhealthy looking
- Loss of muscular coordination
- Liver, gastrointestinal problems
- Chronic fatigue
- Loss of memory and/or black outs
- Long lunch periods
- Mental slowdown, inability to grasp meaning of facts
- Lying
- Poor balance
- Odor on the breath or excessive use of mouthwash or mints to cover odor
- Impairment in social functioning, low frustration tolerance, impulsiveness, over-sensitivity, mood swings, isolation, defiance, manipulation of others, uncharacteristic passive behavior
- Impaired senses
- Unexplained bruises and accidents

## Detection Time:

Generally it takes about 1 hour per 1/2 ounce of alcohol consumed to sober up completely.

## Effects of Alcohol Use:

### Mental Performance:

- Lowered level of alertness
- Mood Swings
- False sense of power and energy
- Depression
- Anxiety

### Driver Performance:

- Suspends or distorts sensory judgment, which can lead to increased risk of accidents.
- Heavy use of alcohol may produce “blackouts” which is extremely dangerous if operating vehicles and other types of equipment.
- The sick feeling associated with hangovers, including headaches, nausea, and other symptoms, can distract a driver’s attention and lead to accidents even though alcohol may no longer be detectable in the body.

**The statistics reported above make it clear that alcohol can have a devastating effect on individual performance. By affecting vision, reflexes, coordination, emotions, aggressiveness, and judgment, alcohol deprives the individual of most of the tools he or she relies upon to perform safely.**

# CHAPTER 10 – FORMS

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The following forms are to be used in managing the Substance-Free Workplace Policy and Controlled Substances and Alcohol Testing Policy.

**FORM-1** – *Substance Testing Log Sheet*

**FORM-2** – *Annual Summary of Drug and Alcohol Testing MIS Data Collection*

**FORM-3** – *Behavior Incident Form*

**FORM-4** – *Tracking Sheet for Employee Performance Problems (Optional)*

**FORM-5** – *Request/Consent for Information from Previous Employer on Alcohol & Controlled Substances Testing*

**FORM-6** – *Consent for Pre-Employment/Pre-Duty Controlled Substance Testing*

**FORM-7** – *Applicant/Employee Pre-Employment Testing History*

**FORM-8** – *Supervisor Training Acknowledgment Form*

**FORM-9** – *Policy Acknowledgment Form*

*Chain of Custody and Control Forms*  
(supplied by collection site)



The following form and instructions must be used when an employer is required to report MIS data to a DOT agency.

For Calendar Year \_\_\_\_\_

**I. EMPLOYER:**

Company Name: \_\_\_\_\_  
 Doing Business As (DBA) Name (if applicable): \_\_\_\_\_  
 Address: \_\_\_\_\_ E-mail: \_\_\_\_\_  
 Name of Certifying Official: \_\_\_\_\_ Signature: \_\_\_\_\_  
 Telephone: ( ) \_\_\_\_\_ Date Certified: \_\_\_\_\_  
 Prepared by (if different): \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_  
 C/TPA Name and Telephone (if applicable): \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_

Check the DOT agency for which you are reporting MIS data; and complete the information on that same line as appropriate:

FMCSA – Motor Carrier: DOT #: \_\_\_\_\_ Owner-operator: YES or NO Exempt: YES or NO  
 FAA – Aviation: Certificate # (if applicable): \_\_\_\_\_ Plan / Registration # (if applicable): \_\_\_\_\_  
 RSPA – Pipeline: Gas Gathering \_\_\_ Gas Transmission \_\_\_ Gas Distribution \_\_\_ Transport Hazardous Liquids \_\_\_ Transport Carbon Dioxide \_\_\_  
 FRA – Railroad: Total Number of observed/documentated Part 219 "Rule G" Observations for covered employees: \_\_\_\_\_  
 USCG – Maritime: Vessel ID # (USCG- or State-Issued): \_\_\_\_\_ (If more than one vessel, list separately.)  
 FTA – Transit

**II. COVERED EMPLOYEES: (A) Enter Total Number Safety-Sensitive Employees in All Employee Categories:**

**(B) Enter Total Number of Employee categories:**

**(C)**

Employee Category in this Category	Total Number of Employees

If you have multiple employee categories, complete Sections I and II (A) & (B). Take that filled-in form and make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

**III. DRUG TESTING DATA:**

Type of Test	Total Number Of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11, and 12]	2	3	4	5	6	7	8	9	10-13 Refusal Results				
										10	11	12	13	
		Verified Negative Results	Verified Positive Results For One Or More Drugs	Positive For Marijuana	Positive For Cocaine	Positive For PCP	Positive For Opiates	Positive For Amphetamines	Adulterated	Substituted	"Shy Bladder" With No Medical	Other Refusals To Submit To Testing	Cancelled Results	
Pre-Employment														
Random														
Post-Accident														
Reasonable Susp./Cause														
Return-to-Duty														
Follow-Up														
TOTAL														

**IV. ALCOHOL TESTING DATA:**

Type of Test	Total Number Of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8]	2	3	4	5	6	7	8	9
		Screening Tests With Results Below 0.02	Screening Tests With Results 0.02 Or Greater	Number Of Confirmation Tests Results	Confirmation Tests With Results 0.02 Through 0.039	Confirmation Tests With Results 0.04 Or Greater	"Shy Lung" With No Medical Explanation	Other Refusals To Submit To Testing	Cancelled Results
Pre-Employment									
Random									
Post-Accident									
Reasonable Suspicion									
Return-to-Duty									
Follow-Up									
TOTAL									



**PAPERWORK REDUCTION ACT NOTICE (as required by 5 CFR 1320.21)**

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Title 18, USC Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements of representations in any matter within the jurisdiction of any agency of the United States.

**U.S. DEPARTMENT OF TRANSPORTATION  
DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM  
INSTRUCTION SHEET**

This Management Information System (MIS) form is made-up of four sections: employer information; covered employees (i.e., employees performing DOT regulated safety-sensitive duties) information; drug testing data; and alcohol testing data. The employer information needs only to be provided once per submission. However, you must submit a separate page of data for each employee category for which you report testing data. If you are preparing reports for more than one DOT agency then you must submit DOT agency-specific forms.

Please type or print entries legibly in black ink.

**TIP:** Read the entire instructions before starting. Please note that USCG-regulated employers do not report alcohol test results on the MIS form.

**Calendar Year Covered by this Report:** Enter the appropriate year.

**SECTION I. EMPLOYER**

1. Enter your company's name, to include when applicable, your "doing business as" name; current address, city, state, and zip code; and an e-mail address, if available.
2. Enter the printed name, signature, and complete telephone number of the company official certifying the accuracy of the report and the date that person certified the report as complete.
3. If someone other than the certifying official completed the MIS form, enter that person's name and phone number on the appropriate lines provided.
4. If a Consortium/Third Party Administrator (C/TPA) performs administrative services for your drug and alcohol program operation, enter its name and phone number on the appropriate lines provided.
5. DOT Agency Information: Check the box next to the DOT agency for which you are completing this MIS form. Again, if you are submitting to multiple DOT agencies, you must use separate forms for each DOT agency.
  - a. If you are completing the form for FMCSA, enter your FMCSA DOT Number, as appropriate. In addition, you must indicate whether you are an owner-operator (i.e., an employer who employs only himself or herself as a driver) and whether you are exempt from providing MIS data. Exemptions are noted in the FMCSA regulation at 382.103(d).
  - b. If you are completing the form for FAA, enter your FAA Certificate Number and FAA Antidrug Plan / Registration Number, when applicable.
  - c. If you are completing the form for RSPA, check the additional box(s) indicating your type of operation.
  - d. If you are completing the form for FRA, enter the number of observed/documented Part 219 "Rule G" Observations for covered employees.
  - e. If you are submitting the form for USCG, enter the vessel ID number. If there is more than one number, enter the numbers separately.

**SECTION II. COVERED EMPLOYEES**

1. In Box II-A, enter the total number of covered employees (i.e., employees performing DOT regulated safety-sensitive duties) who work for your company. Then enter, in Box II-B, the total number of employee categories that number represents. If you have employees, some of whom perform duties under one DOT agency and others of whom perform duties under another DOT agency, enter only the number of those employees performing duties under the DOT agency for whom you are submitting the form. If you have covered employees who perform multi-DOT agency functions (e.g., an employee drives a commercial motor vehicle and performs pipeline maintenance duties for you), count the employee only on the MIS report for the DOT agency regulating more than 50 percent of the employee's safety sensitive function.

[Example: If you are submitting the information for the FRA and you have 2000 covered employees performing duties in all FRA-covered service categories – you would enter "2000" in the first box (II-A) and "5" in the second box (II-B), because FRA has five safety-sensitive employee categories and you have employees in all of these groups. If you have 1000 employees performing safety-sensitive duties in three FRA-covered service categories (e.g., engine service, train service, and dispatcher/operation), you would enter "1000" in the first box (II-A) and "3" in the second box (II-B).]

**TIP:** To calculate the total number of covered employees, add the total number of covered employees eligible for testing during each random testing selection period for the year and divide that total by the number of random testing periods. (However, no company will need to factor the average number of employees more often than once per month). For instance, a company conducting random testing quarterly needs to add the total of covered employees they had in the random pool when each selection was made; then divide this number by 4 to obtain the yearly average number of covered employees. It is extremely important that you place all eligible employees into these random pools. [As an example, if Company A had 1500 employees in the first quarter random pool, 2250 in the second quarter, 2750 in the third quarter; and 1500 in the fourth quarter;  $1500 + 2250 + 2750 + 1500 = 8000$ ;  $8000 / 4 = 2000$ ; the total number of covered employees for the year would be reported as, "2000".]

If you conduct random selections more often than once per month (e.g., you select daily, weekly, bi-weekly), you do not need to compute this total number of covered employees rate more than on a once per month basis. Therefore, employers need not compute the covered employees' rate more than 12 times per year.]

2. If you are reporting multiple employee categories, enter the specific employee category in box II-C; and provide the number of employees performing safety-sensitive duties in that specific category.

[Example: You are submitting data to the FTA and you have 2000 covered employees. You have 1750 personnel performing revenue vehicle operation and the remaining 250 are performing revenue vehicle and equipment maintenance. When you provide vehicle operation information, you would enter "Revenue Vehicle Operation" in the first II-C box and "1750" in the second II-C box. When you provide data on the maintenance personnel, you would enter "Revenue Vehicle and Equipment Maintenance" in the first II-C box and "250" in the second II-C box.]

**TIP:** A separate form for each employee category must be submitted. You may do this by filling out a single MIS form through Section II-B and then make one copy for each additional employee category you are reporting. [For instance, if you are submitting the MIS form for the FMCSA, you need only submit one form for all FMCSA covered employees working for you – your only category of employees is "driver." If you are reporting testing data to the FAA and you employ only flight crewmembers, flight attendants, and aircraft maintenance workers, you need to complete one form each for category – three forms in all. If you are reporting to FAA and have all FAA categories of covered employees, you must submit eight forms.]

Here is a full listing of covered-employee categories:

**FMCSA (one category): Driver**

**FAA (eight categories):** Flight Crewmember; Flight Attendant; Flight Instructor; Aircraft Dispatcher; Aircraft Maintenance; Ground Security Coordinator; Aviation Screener; Air Traffic Controller

**RSPA (one category):** Operation/Maintenance/Emergency Response

**FRA (five categories):** Engine Service; Train Service; Dispatcher/Operation; Signal Service; Other [Includes yardmasters, hostlers (non-engineer craft), bridge tenders; switch tenders, and other miscellaneous employees performing 49 CFR 228.5 (c) defined covered service.]

**USCG (one category):** Crewmember

**FTA (five categories):** Revenue Vehicle Operation; Revenue Vehicle and Equipment Maintenance; Revenue Vehicle Control/Dispatch; CDL/Non-Revenue Vehicle; Armed Security Personnel

### SECTION III. DRUG TESTING DATA

This section summarizes the drug testing results for all covered employees (to include applicants). The table in this section requires drug test data by test type and by result. The categories of test types are: Pre-Employment; Random; Post-Accident; Reasonable Suspicion / Reasonable Cause; Return-to-Duty, and Follow-Up.

The categories of type of results are: Total Number of Test Results [excluding cancelled tests and blind specimens]; Verified Negative; Verified Positive; Positive for Marijuana; Positive for Cocaine; Positive for PCP; Positive for Opiates; Positive for Amphetamines; Refusals due to Adulterated, Substituted, "Shy Bladder" with No Medical Explanation, and Other Refusals to Submit to Testing; and Cancelled Results.

**TIP:** Do not enter data on blind specimens submitted to laboratories. Be sure to enter all pre-employment testing data regardless of whether an applicant was hired or not. You do not need to separate reasonable suspicion and reasonable cause drug testing data on the MIS form. [Therefore, if you conducted only reasonable suspicion drug testing (i.e., FMCSA and FTA), enter that data; if you conducted only reasonable cause drug testing (i.e., FAA, RSPA, and USCG); or if you conducted both under FRA drug testing rules, simply enter the data with no differentiation.] For USCG, enter any "Serious Marine Incident" testing in the Post-Accident row. For FRA, do not enter post accident data (the FRA does not collect this data on the MIS form). Finally, you may leave blank any row or column in which there were no results, or you may enter "0" (zero) instead. Please note that cancelled tests are not included in the "total number of test results" column.

#### **Section III, Column 1. Total Number of Test Results –**

This column requires a count of the total number of test results in each testing category during the entire reporting year. Count the number of test results as the number of testing events resulting in negative, positive, and refusal results. Do not count cancelled tests and blind specimens in this total.

[Example: A company that conducted fifty pre-employment tests would enter "50" on the Pre-Employment row. If it conducted one hundred random tests, "100" would be entered on the Random row. If that company did no post-accident, reasonable suspicion, reasonable cause, return-to-duty, or follow-up tests, those categories will be left blank or zeros entered.]

#### **Section III, Column 2. Verified Negative Results –**

This column requires a count of the number of tests in each testing category that the Medical Review Officer (MRO) reported as negative. Do not count a negative-dilute result if, subsequently, the employee underwent a second collection; the second test is the test of record.

[Example: If forty-seven of the company's fifty pre-employment tests were reported negative, "47" would be entered in Column 2 on the Pre-Employment row. If ninety of the company's one hundred random test results were reported negative, "90" would be entered in Column 2 on the Random row. Because the company did no other testing, those other categories would be left blank or zeros entered.]

#### **Section III, Column 3. Verified Positive Results For One Or More Drugs –**

This column requires a count of the number of tests in each testing category that the MRO reported as positive for one or more drugs. When the MRO reports a test positive for two drugs, it would count as one positive test.

[Example: If one of the fifty pre-employment tests was positive for two drugs, "1" would be entered in Column 3 on the Pre-Employment row. If four of the company's one hundred random test results were reported positive (three for one drug and one for two drugs), "4" would be entered in Column 3 on the Random row.]

**Section III, Columns 4 through 8. Positive** (for specific drugs) – These columns require entry of the by-drug data for which specimens were reported positive by the MRO.

[Example: The pre-employment positive test reported by the MRO was positive for marijuana, “1” would be entered in Column 4 on the Pre-Employment row. If three of the four positive results for random testing were reported by the MRO to be positive for marijuana, “3” would be entered in Column 4 on the Random row. If one of the four positive results for random testing was reported positive for both PCP and opiates, “1” would be entered in Column 6 on the Random row and “1” would be entered in Column 7 of the Random row.]

**TIP:** Column 1 should equal the sum of Columns 2, 3, 9, 10, 11, and 12. Remember you have not counted specimen results that were ultimately cancelled or were from blind specimens. So, Column 1 = Column 2 + Column 3 + Column 9 + Column 10 + Column 11 + Column 12. Certainly, double check your records to determine if your actual results count is reflective of all negative, positive, and refusal counts.

An MRO may report that a specimen is positive for more than one drug. When that happens, to use the company example above (i.e., one random test was positive for both PCP and opiates), the positive results should be recorded in the appropriate columns – PCP and opiates in this case. There is no expectation for Columns 4 through 8 numbers to add up to the numbers in Column 3 when you report multiple positives.

**Section III, Columns 9 through 12. Refusal Results** – The refusal section is divided into four refusal groups – they are: Adulterated; Substituted; “Shy Bladder” ~ With No Medical Explanation; and Other Refusals To Submit to Testing. The MRO reports two of these refusal types – adulterated and substituted specimen results – because of laboratory test findings.

When an individual does not provide enough urine at the collection site, the MRO conducts or causes to have conducted a medical evaluation to determine if there exists a medical reason for the person’s inability to provide the appropriate amount of urine. If there is no medical reason to support the inability, the MRO reports the result to the employer as a refusal to test: Refusals of this type are reported in the “Shy Bladder” ~ With No Medical Explanation category.

Finally, additional reasons exist for a test to be considered a refusal. Some examples are: the employee fails to report to the collection site as directed by the employer; the employee leaves the collection site without permission; the employee fails to empty his or her pockets at the collection site; the employee refuses to have a required shy bladder evaluation. Again, these are only four examples: there are more.

**Section III, Column 9. Adulterated** – This column requires the count of the number of tests reported by the MRO as refusals because the specimens were adulterated.

[Example: If one of the fifty pre-employment tests was adulterated, “1” would be entered in Column 9 of the Pre-Employment row.]

**Section III, Column 10. Substituted** – This column requires the count of the number of tests reported by the MRO as refusals because the specimens were substituted.

[Example: If one of the 100 random tests was substituted, “1” would be entered in Column 10 of the Random row.]

**Section III, Column 11. “Shy Bladder” With No Medical Explanation** – This column requires the count of the number of tests reported by the MRO as being a refusal because there was no legitimate medical reason for an insufficient amount of urine.

[Example: If one of the 100 random tests was a refusal because of shy bladder, “1” would be entered in Column 11 of the Random row.]

**Section III, Column 12. Other Refusals To Submit To Testing** – This column requires the count of refusals other than those already entered in Columns 9 through 11.

[Example: If the company entered “100” as the number of random specimens collected, however it had five employees who refused to be tested without submitting specimens: two did not show up at the collection site as directed; one refused to empty his pockets at the collection site; and two left the collection site rather than submit to a required directly observed collection. Because of these five refusal events, “5” would be entered in Column 11 of the Random row.]

**TIP:** Even though some testing events result in a refusal in which no urine was collected and sent to the laboratory, a “refusal” is still a final test result. Therefore, your overall numbers for test results (in Column 1) will equal the total number of negative tests (Column 2); positives (Column 3); and refusals (Columns 9, 10, 11, and 12). Do not worry that no urine was processed at the laboratory for some refusals; all refusals are counted as a testing event for MIS purposes and for establishing random rates.

**Section III, Column 13. Cancelled Tests** – This column requires a count of the number of tests in each testing category that the MRO reported as cancelled. You must not count any cancelled tests in Column 1 or in any other column. For instance, you must not count a positive result (in Column 3) if it had ultimately been cancelled for any reason (e.g., specimen was initially reported positive, but the split failed to reconfirm).

[Example: If a pre-employment test was reported cancelled, “1” would be entered in Column 13 on the Pre-Employment row. If three of the company’s random test results were reported cancelled, “3” would be entered in Column 13 on the Random row.]

**TOTAL Line. Columns 1 through 13** – This line requires you to add the numbers in each column and provide the totals.

## SECTION IV. ALCOHOL TESTING DATA

This section summarizes the alcohol testing conducted for all covered employees (to include applicants). The table in this section requires alcohol test data by test type and by result. The categories of test types are: Pre-Employment; Random; Post-Accident; Reasonable Suspicion / Reasonable Cause; Return-to-Duty, and Follow-Up.

The categories of results are: Number of Screening Test Results; Screening Tests with Results Below 0.02; Screening Tests with Results 0.02 Or Greater; Number of Confirmation Test Results; Confirmation Tests with Results 0.02 through 0.039; Confirmation Tests with Results 0.04 Or Greater; Refusals due to "Shy Lung" with No Medical Explanation, and Other Refusals to Submit to Testing; and Cancelled Results.

**TIP:** *Be sure to enter all pre-employment testing data regardless of whether an applicant was hired or not. Of course, for most employers pre-employment alcohol testing is optional, so you may not have conducted this type of testing. You do not need to separate "reasonable suspicion" and "reasonable cause" alcohol testing data on the MIS form. [Therefore, if you conducted only reasonable suspicion alcohol testing (i.e., FMCSA, FAA, FTA, and RSPA), enter that data; if you conducted both reasonable suspicion and reasonable cause alcohol testing (i.e., FRA), simply enter the data with no differentiation.] RSPA does not authorize "random" testing for alcohol. Finally, you may leave blank any row or column in which there were no results, or you may enter "0" (zero) instead. Please note that USCG-regulated employers do not report alcohol test results on the MIS form: Do not fill-out Section IV if you are a USCG-regulated employer.*

**Section IV, Column 1. Total Number of Screening Test Results** – This column requires a count of the total number of screening test results in each testing category during the entire reporting year. Count the number of screening tests as the number of screening test events with final screening results of below 0.02, of 0.02 through 0.039, of 0.04 or greater, and all refusals. Do not count cancelled tests in this total.

[Example: A company that conducted twenty pre-employment tests would enter "20" on the Pre-Employment row. If it conducted fifty random tests, "50" would be entered. If that company did no post-accident, reasonable suspicion, reasonable cause, return-to-duty, or follow-up tests, those categories will be left blank or zeros entered.]

**Section IV, Column 2. Screening Tests With Results Below 0.02** – This column requires a count of the number of tests in each testing category that the BAT or STT reported as being below 0.02 on the screening test.

[Example: If seventeen of the company's twenty pre-employment screening tests were reported as being below 0.02, "17" would be entered in Column 2 on the Pre-Employment row. If forty-four of the company's fifty random screening test results were reported as being below 0.02, "44" would be entered in Column 2 on the Random row. Because the company did no other testing, those other categories would be left blank or zeros entered.]

**Section IV, Column 3. Screening Tests With Results 0.02 Or Greater** – This column requires a count of the

number of screening tests in each testing category that BAT or STT reported as being 0.02 or greater on the screening test.

[Example: If one of the twenty pre-employment tests was reported as being 0.02 or greater, "1" would be entered in Column 3 on the Pre-Employment row. If four of the company's fifty random test results were reported as being 0.02 or greater, "4" would be entered in Column 3 on the Random row.]

**Section IV, Column 4. Number of Confirmation Test Results** – This column requires entry of the number of confirmation tests that were conducted by a BAT as a result of the screening tests that were found to be 0.02 or greater. In effect, all screening tests of 0.02 or greater should have resulted in confirmation tests. Ideally the number of tests in Column 3 and Column 4 should be the same. However, we know that this required confirmation test sometimes does not occur. In any case, the number of confirmation tests that were actually performed should be entered in Column 4.

[Example: If the one pre-employment screening test reported as 0.02 or greater had a subsequent confirmation test performed by a BAT, "1" would be entered in Column 4 on the Pre-Employment row. If three of the four random screening tests that were found to be 0.02 or greater had a subsequent confirmation test performed by a BAT, "3" would be entered in Column 4 on the Random row.]

**Section IV, Column 5. Confirmation Tests With Results 0.02 Through 0.039** – This column requires entry of the number of confirmation tests that were conducted by a BAT that led to results that were 0.02 through 0.039.

[Example: If the one pre-employment confirmation test yielded a result of 0.042, Column 5 of the Pre-Employment row would be left blank or zeros entered. If two of the random confirmation tests yielded results of 0.03 and 0.032, "2" would be entered in Column 5 of the Random row.]

**Section IV, Column 6. Confirmation Tests With Results 0.04 Or Greater** – This column requires entry of the number of confirmation tests that were conducted by a BAT that led to results that were 0.04 or greater.

[Example: Because the one pre-employment confirmation test yielded a result of 0.042, "1" would be entered in Column 6 of the Pre-Employment row. If one of the random confirmation tests yielded a result of 0.04, "1" would be entered in Column 6 of the Random row.]

**TIP:** Column 1 should equal the sum of Columns 2, 3, 7, and 8. The number of screening tests results should reflect the number of screening tests you have no matter the result (below 0.02 or at or above 0.02, plus refusals to test), unless of course, the tests were ultimately cancelled. So, Column 1 = Column 2 + Column 3 + Column 7 + Column 8. Certainly, double check your records to determine if your actual screening results count is reflective of all these counts.

There is no need to record MIS confirmation tests results below 0.02: That is why we have no column for it on the form. [If the random test that screened 0.02 went to a confirmation test, and that confirmation test yielded a result below 0.02, there is no place for that confirmed result to be entered.] We assume that if a confirmation test was completed but not listed in either Column 5 or Column 6, the result was below 0.02. In addition, if the confirmation test ended up being cancelled, it should not have been included in Columns 1, 3, or 4 in the first place.

**Section IV, Columns 7 and 8. Refusal Results** – The refusal section is divided into two refusal groups – they are: Shy Lung With No Medical Explanation; and Other Refusals To Submit to Testing. When an individual does not provide enough breath at the test site, the company requires the employee to have a medical evaluation to determine if there exists a medical reason for the person’s inability to provide the appropriate amount of breath. If there is no medical reason to support the inability as reported by the examining physician, the employer calls the result a refusal to test: Refusals of this type are reported in the “Shy Lung With No Medical Explanation” category.

Finally, additional reasons exist for a test to be considered a refusal. Some examples are: the employee fails to report to the test site as directed by the employer; the employee leaves the test site without permission; the employee fails to sign the certification at Step 2 of the ATF; the employee refuses to have a required shy lung evaluation. Again, these are only four examples; there are more.

**Section IV, Column 7. “Shy Lung” With No Medical Explanation** – This column requires the count of the number of tests in which there is no medical reason to support the employee’s inability to provide an adequate breath as reported by the examining physician; subsequently, the employer called the result a refusal to test.

[Example: If one of the 50 random tests was a refusal because of shy lung, “1” would be entered in Column 7 of the Random row.]

**Section IV, Column 8. Other Refusals To Submit To Testing** – This column requires the count of refusals other than those already entered in Columns 7.

[Example: The company entered “50” as the number of random specimens collected, however it had one employee who did not show up at the testing site as directed. Because of this one refusal event, “1” would be entered in Column 8 of the Random row.]

**TIP:** Even though some testing events result in a refusal in which no breath (or saliva) was tested, there is an expectation that your overall numbers for screening tests (in Column 1) will equal the total number of screening tests with results below 0.02 (Column 2); screening tests with results 0.02 or greater (Column 3); and refusals (Columns 7 and 8). Do not worry that no breath (or saliva) was tested for some refusals; all refusals are counted as a screening test event for MIS purposes and for establishing random rates.

**Section IV, Column 9. Cancelled Tests** – This column requires a count of the number of tests in each testing category that the BAT or STT reported as cancelled. Do not count any cancelled tests in Column 1 or in any other column other than Column 9. For instance, you must not count a 0.04 screening result or confirmation result in any column, other than Column 9, if the test was ultimately cancelled for some reason (e.g., a required air blank was not performed).

[Example: If a pre-employment test was reported cancelled, “1” would be entered in Column 9 on the Pre-Employment row. If three of the company’s random test results were reported cancelled, “3” would be entered in Column 13 on the Random row.]

**TOTAL Line. Columns 1 through 9** – This line requires you to add the numbers in each column and provide the totals.

Employee Name: \_\_\_\_\_

Branch / Location / Work Site: \_\_\_\_\_

Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_ AM \_\_\_\_\_ PM

Date of Report: \_\_\_\_\_ Time of Report: \_\_\_\_\_ AM \_\_\_\_\_ PM

Supervisor Witnesses:

Name	Job Title	Date Supervisor Training Completed

Specific behavior incident details (check words describing detail):

**Ability to Walk**

- Normal                       Staggering                       Swaying                       Unable to walk  
 On hands and knees

**Ability to Stand**

- Normal                       Sagging knees                       Rigid                       Unable to stand  
 Swaying                       Wobbling                       Falling

**Speech**

- Normal                       Hoarse                       Whispering                       Unable to speak  
 Shouting                       Incoherent                       Slurred  
 Confused                       Whining                       Crying

**Breath – Odor of alcoholic beverage**

- None                       Faint                       Strong

**Tremor of Hands**

- None                       Slight                       Pronounced

**Condition of Hair**

- Normal                       Disheveled                       Matted

**Condition of Eyes**

- Normal                       Bloodshot                       Watery                       Pupils dilated

**Color of Face**

- Normal                       Flushed, red                       Pale

**Condition of Clothes**

- Orderly                       Mussed                       Soiled                       Partly dressed

**Attitude**

- Cooperative                       Insulting                       Hilarious                       Argumentative

**Actions**

- Normal                       Kicking                       Punching                       Hiccoughing  
 Vomiting                       Sleepy                       Other (specify): \_\_\_\_\_

Note any other unusual physical characteristics or actions:

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Note responses to these direct questions:

Are you ill?  Yes  No  
Are you injured?  Yes  No  
Did you go to a doctor or dentist today?  Yes  No

Actions taken by witnessing supervisor(s):

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Was employee asked to submit to a test for substances?  Yes  No  
If yes, did employee agree to submit to such a test?  Yes  No

What arrangements were made to get employee to collection site?

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Date, time and location of controlled substance test:

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Witness Signature Date Witness Signature Date

---

Witness Signature Date Witness Signature Date

*Supervisor Completing Behavior Incident Report:*

---

Supervisor Signature Date



Employee Name: \_\_\_\_\_

Branch / Location / Work Site: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_ Period Covered: \_\_\_\_\_

**Action Taken** [Note type (e.g., verbal, written), date and time]

First Warning: \_\_\_\_\_

Second Warning: \_\_\_\_\_

PROBLEM AREA	DATE(S)	COMMENTS
ATTENDANCE (absences or tardiness)		
PRODUCTIVITY / WORK QUALITY		
MISCELLANEOUS ( <i>note any customer, coworker, source comments or incidents of inappropriate behavior</i> )		

**MOOD-ATTITUDE**

- Dramatic mood swings, high or low
- Nervous, jittery
- Defensive
- Irritable
- Paranoid
- Accusatory
- Argumentative
- Inappropriate, bizarre behavior

**TIME ABUSE, DISTORTIONS**

- Frequent absence from work station (explained or unexplained)
- Long lunch periods, excessive breaks
- Absenteeism, sometimes with a pattern
- Excessive sick leave (frequent colds, minor illnesses)
- Often tardy
- Misses deadlines and appointments
- Loses perspective of time

**WORK QUALITIES**

- Concentration difficult
- Careless or reckless
- Difficulty in following directions
- Lack of interest in work
- Motivation decrease, apathy
- Over-reaction to comments, criticism
- Undue complaints, criticism about employer, fellow workers
- Rude, abusive
- Complaints from coworkers, clients, etc.

## JOB PERFORMANCE/BEHAVIOR DOCUMENTATION

### Important Instructions:

1. For SUPERVISOR use only; handle notes with highest confidentiality.
2. Indicate events/performance behavior that is continued and/or repeated.
3. Many different job-related problems which relate to the same individuals should also be noted on this record.
4. **List facts.** Avoid opinions, rumor, hearsay, and non-work related information.

### Do:

1. Deal with the job-related problem only.
2. Remember, problems get worse.
3. Act when you become concerned.
4. Focus on the job problem.
5. Document incidents.

### Don't:

1. Diagnose the problem.
2. Delay your decision to act.
3. Discuss personal problems.
4. Moralize or criticize the person.
5. Let emotions become involved.
6. Cover up for a friend.

### Meeting with the Employee:

1. Talk calmly.
2. Stay with the facts.
3. Meet in a quiet, private place.
4. Emphasize confidentiality.
5. Specify timeline for improvement.
6. State consequences if timeline is not met.
7. Focus on the job problems, not the person.

**REMEMBER THAT SOME OF THE LISTED ITEMS INDICATE NORMAL BEHAVIOR VARIATIONS OR HEALTH PROBLEMS. GIVE ENOUGH TIME FOR THEM TO IMPROVE. SIGNS ARE NOT PROOF. CONCLUSIONS SHOULD BE BASED ON FACTS.**

### A. Absenteeism

- 1. Multiple instances of unauthorized leave.
- 2. Excessive sick leave.
- 3. Frequent Monday and/or Friday absences.
- 4. Repeated absences, particularly if they follow a pattern.
- 5. Excessive tardiness, especially on Monday mornings or in returning from lunch.
- 6. Leaving work early.
- 7. Peculiar and increasingly improbable excuses for absences.
- 8. Higher absenteeism rate than other employees for colds, flu, gastritis, etc.
- 9. Frequent unscheduled short-term absences (with or without medical explanation).

### B. "On-the-job" Absenteeism

- 1. Continued absences from post, more than job requires.
- 2. Frequent trips to the water fountain, restroom or parking lot.
- 3. Long coffee breaks.
- 4. Physical illness on the job.
- 5. Lackadaisical attitude ('don't give a damn'), too laid-back.
- 6. Secret meetings between employees.

### C. High Accident Rate (more accident claims)

- 1. Accidents on the job.
- 2. Accidents off the job.

### D. Physical/Behavior Changes

- 1. Time/speed (expansion/compression)
- 2. Slow reaction time.
- 3. Glare recovery problems from bright lights.
- 4. Dizziness.
- 5. Difficulty recognizing changes in signal lights.
- 6. Slow, slurred speech.
- 7. Hand tremors.

### E. Difficulty in Concentration (paying attention)

- 1. Work requires greater effort.
- 2. Jobs take more time.
- 3. Can't stay on track with ideas or conversations.
- 4. Focuses on single item (can't complete multi-task functions).

### F. Confusion

- 1. Difficulty in recalling instructions, details, etc.
- 2. Increasing difficulty in handling complex assignments.
- 3. Difficulty in recalling own mistakes.
- 4. Irritability.
- 5. Nervousness, worry.
- 6. Unpredictable or unwarranted mood swings during the day (up and/or down).

### G. Spasmodic Work Patterns/Behaviors

- 1. Alternate periods of high and low productivity.
- 2. Loss of promotional consideration by boss.
- 3. Refuses advancement.
- 4. Excitation.
- 5. Talkativeness.

### H. Physical Condition and Appearance

- 1. Changes in grooming/dress – sloppy appearance.
- 2. Decline in general physical appearance.
- 3. Weight loss/appetite loss.
- 4. Weight gain, continuous hunger cravings.
- 5. Drippy nose, sniffles, bloody nose – chronic.
- 6. Bloodshot eyes.
- 7. Eye pupils dilated/pin-point.
- 8. Extremely heavy sweating.

### I. Generally Lower Job Efficiency

- 1. Missed deadlines.
- 2. Mistakes due to inattention or poor judgment.
- 3. Wasting more material.
- 4. Making bad decisions.
- 5. Complaints from users of product/services.
- 6. Improbable excuses for poor job performance.
- 7. Neglects routine details.

### J. Poor Employee Relationships on the Job

- 1. Over-reaction to real or imagined criticism.
- 2. Unreasonable resentment.
- 3. Avoids co-workers/associates/boss.
- 4. Attempts to get others to take over job duties.
- 5. Withdrawn (preoccupied behavior).

**SECTION 1: TO BE COMPLETED BY APPLICANT**

NAME (Print): \_\_\_\_\_  
 First M.I. Last Social Security Number

Previous Employer Name: \_\_\_\_\_

Street: \_\_\_\_\_ Telephone #: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_ Fax #: \_\_\_\_\_

**I hereby authorize my previous employer listed above to release and forward my Department of Transportation (DOT) substance testing records to the Town of Canandaigua. This release is in accordance with DOT regulation 49 CFR Part 40, Section 40.25. I understand that the information to be released by my previous employer is limited to the following items for the past three years:**

- Alcohol tests with a result of 0.04 or higher
- Verified positive drug tests
- Refusals to be tested
- Other violations of the DOT substance testing regulations
- Documentation, if any, of completion of the return-to-duty process following a rule violation
- Information obtained from previous employers of a drug and alcohol rule violation

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

My DOT substance testing records should be released and forwarded to:

TOWN OF CANANDAIGUA

Attention of: \_\_\_\_\_

Street: \_\_\_\_\_ Telephone #: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_ Fax #: \_\_\_\_\_

**SECTION 2: TO BE COMPLETED BY PREVIOUS EMPLOYER**

**COMPLETE THIS SECTION AS IT PERTAINS TO DOT REGULATION 49 CFR PART 40, SECTION 40.25.**

**In the previous three years, did the individual listed above:**

- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 1. receive a verified positive controlled substance test?                            | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. receive a positive alcohol test with an alcohol concentration of 0.04 or greater? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. refuse to be tested for a required drug or alcohol test?                          | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. violate any other DOT substance testing regulations?                              | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered YES to any of the above questions, explain: \_\_\_\_\_

If you answered YES to any of the above questions, please provide documentation, if any, that the individual successfully completed the DOT return-to-duty requirements (e.g., SAP reports, follow-up testing record).

5. Did a previous employer report a drug and alcohol rule violation to you?  Yes  No ( If yes, provide a copy of the employer's report)

Name of Person Completing This Section (Print): \_\_\_\_\_

Signature of Person Completing This Section: \_\_\_\_\_

Job Title: \_\_\_\_\_ Telephone #: (\_\_\_\_) \_\_\_\_\_ Date: \_\_\_\_\_

**PREVIOUS EMPLOYER – COMPLETE AND RETURN TO THE TOWN OF CANANDAIGUA**

**SECTION 3: TO BE COMPLETED BY TOWN OF CANANDAIGUA**

This form was (check one)  Faxed to previous employer  Mailed Date: \_\_\_\_\_

Follow-up contacts:

Person contacted: \_\_\_\_\_ Contacted by:  Phone  Fax

- Outcome:**  left message  never received release request – resent  refused to release records  
 agreed to mail or fax records  obtained information over the phone

Notes: \_\_\_\_\_

Follow-up conducted by: \_\_\_\_\_ Date: \_\_\_\_\_

Complete below when information is obtained.

Information received from: \_\_\_\_\_

Recorded by: \_\_\_\_\_ Method:  Fax  Mail  Telephone

Date: \_\_\_\_\_  Personal Interview



49 CFR Part §40.25(j) of The Omnibus Transportation Employee Testing Act of 1991 requires the Town of Canandaigua to request the following information from an applicant prior to his/her performing any safety-sensitive functions covered by the DOT testing rules. This includes an employee in a non-covered position who is applying for a covered position.

Applicant/Employee Name: \_\_\_\_\_  
First M.I. Last

1. **During the past three years, have you tested positive on any pre-employment drug or alcohol test administered by any organization to which you applied for, but did not obtain, safety-sensitive transportation work covered by the Department of Transportation's (DOT) substance testing rules?**  
Yes  No

1a. If "yes", indicate organization name: \_\_\_\_\_  
Street: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

2. **During the past three years, have you refused to take any pre-employment/pre-duty drug or alcohol test administered by any organization to which you applied for, but did not obtain, safety-sensitive transportation work covered by the DOT's substance testing rules?**  
Yes  No

2a. If "yes", indicate organization name: \_\_\_\_\_  
Street: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

3. If you answered "yes" to either (1) or (2) above, did you receive an evaluation and/or treatment from a substance abuse professional (SAP)?  
Yes  No

*If you received an evaluation and/or treatment from a SAP, please provide documentation that you successfully completed the return-to-duty process required by Part 40, Subpart O of the DOT regulations.*

4. If you were evaluated by, and/or received treatment from, a SAP, please provide the following information:  
Substance Abuse Professional's Name: \_\_\_\_\_  
Agency/Treatment Center Name: \_\_\_\_\_  
Street: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_ Telephone: \_\_\_\_\_

I hereby certify that all of the information provided on this form is accurate and complete to the best of my knowledge. I understand that any misrepresentation or omission of facts will disqualify me from further consideration of employment, withdrawal of any offer of employment, or termination of employment, if hired.

I authorize the Town of Canandaigua to contact the SAP named above to confirm if I was evaluated by such individual and if I complied with any rehabilitation program prescribed by the SAP following the initial evaluation.

\_\_\_\_\_  
Applicant/Employee Signature Date

I hereby acknowledge that I have received training on the dangers of substance abuse and on the specific physical, behavioral, and performance indicators of drug and alcohol use that will mandate reasonable suspicion testing.

In total, I have received at least one hour of training on reasonable suspicion indicators for alcohol abuse and one hour of training on the subject of reasonable suspicion indicators for drug abuse.

\_\_\_\_\_  
DATE OF SUPERVISORY TRAINING

\_\_\_\_\_  
SUPERVISOR NAME (PLEASE PRINT)

\_\_\_\_\_  
SIGNATURE OF SUPERVISOR

\_\_\_\_\_  
DATE OF SIGNATURE

I hereby acknowledge that I have received a copy of the Town of Canandaigua Controlled Substances and Alcohol Testing Policy outlining the Town's objectives, procedures, and regulations regarding the use of controlled substances and alcohol. I further acknowledge that I have read or will read the contents of this policy and will contact the Designated Employer Representative or my supervisor with any questions.

I understand that the objectives, procedures and regulations in these policies will remain in effect unless changes become necessary.

I understand that the Town of Canandaigua reserves the right to interpret, add to, or revise any part of this policy. Moreover, these policies may be subject to alteration by changes in federal or state legislation, rules, and/or regulations.

I understand that failure to comply with any aspect of this policy will subject me to disciplinary action, up to and including termination of employment.

I agree to abide by the Town of Canandaigua Controlled Substances and Alcohol Testing Policy.

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EMPLOYEE NAME (PLEASE PRINT)

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EMPLOYEE SIGNATURE

---

DATE OF SIGNATURE

---

SIGNATURE OF DEPARTMENT HEAD

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DATE RECEIVED BY DEPARTMENT HEAD

# TOWN OF CANANDAIGUA

## CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY

ADOPTED BY RESOLUTION OF THE TOWN BOARD ON JULY 1, 2013

### SUBSEQUENT READOPTIONS AND AMENDMENTS

January 6, 2020 (Amended)	Resolution 2020-032
January 9, 2023	Resolution 2023-019
January 8, 2024	Resolution 2024-019
January 13, 2025	Resolution 2025-008