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STATEMENT OF POLICY
No. 18

DRUG AND ALCOHOL POLICY
(SAFETY SENSITIVE FUNCTIONS – CDL)

INTRODUCTION:

This delineates the policy under which the Town of Moultonborough will comply with Federal Motor Carrier Safety Administration mandates of the Omnibus Transportation Employee Testing Act of 1991 (PL-) and **49 CFR**-Federal Motor Vehicle Safety, prohibiting the use of certain controlled drugs and alcohol by employees who, by position or function, perform safety sensitive functions that require the possession of a Commercial Driver License (CDL). Within this policy are the procedures for testing, record keeping and enforcement that will be used by the Town of Moultonborough to monitor and ensure compliance.

POLICY STATEMENT:

The Town of Moultonborough has a strong commitment to the health, safety, and welfare of its employees, their families, its customers, and the public at large. Therefore, the Town of Moultonborough seeks to hire and employ workers requiring a Commercial Driver's License (CDL) who are free of illegal and abused drugs and alcohol, and protect employees, their families and the public from the adverse effects of alcohol and drug abuse. All potential DOT safety sensitive employees are required to submit a **2 year** DOT work history in order to be eligible for employment with the Town of Moultonborough. The Town of Moultonborough will conduct pre-employment drug testing, and conduct drug and alcohol testing upon reasonable suspicion. In accordance with a mandated DOT policy consisting of **one** hour of alcohol education and **one** hour of drug abuse education (§382.603 Training for Supervisors) must be completed by all supervisors. Controlled substance abuse testing will be conducted after any vehicle accident, randomly (10% of all **CDL'S** for alcohol annually, 50% of (**CDL'S** for drugs annually), and upon return to duty following a confirmed positive test for alcohol or drugs, and following a SAP approved program. The Town of Moultonborough will utilize a trained DOT supervisor as their DER (Designated Employer Representative). All communications between the TPA, MRO, SAP,BAT, Certified DOT collector and the Town of Moultonborough will be in a confidential manner consistent with DOT **49 CFR PART 40** regulations, governing federal and NH State regulations. All documentation will be retained in a secure environment for at least 5 years from the date of documentation origin.

Stand down of employees will be prohibited.

DEFINITIONS:

Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.

Alcohol Concentration – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. For alcohol screening tests, certain approved non-evidential tests may be used.

Alcohol and Drug Test – A generally accepted and proven test methodology or methodologies as recommended by the Rules and Regulations under **CFR 40** Part 282 Substances and Alcohol Use and Testing. This test method determines whether an individual has ingested or otherwise used the substance in question within a period of time before the test.

Alcohol Use – The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Annual Training – Recognition of the signs and symptoms of substance abuse is required annually in accordance with **49 CFR part 40** for all supervisors. This is to include at the minimum 60 minutes of alcohol and drug abuse education.

Applicant – A person who has applied for a position with the Town of Moultonborough. This will include any past employees eligible for rehire, and present employees voluntarily seeking another the Town of Moultonborough position.

Appointing Authority – The individual, board or commission (e.g. Town Manager, Town Administrator, Board of Selectmen, School Board, County Commissioners, etc.) with the legal authority granted by law, ordinance or policy to appoint, discipline, demote, or dismiss an employee.

Breath Alcohol Technician(BAT) – An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing (EBT) device.

Confirmation Test – In alcohol testing, a second test, following a screening test with a result of **0.02** or greater, after a 15 minute deprivation period, from eating or drinking any fluid within 30 minutes of the initial screen. In controlled substance testing, a second analytical procedure to identify the presence of a specific drug metabolite that is independent of the screening test and that uses a different technique and chemical principle form than that of the screening test in order to ensure reliability and accuracy.

Controlled Substance – Unless otherwise provided, this term refers to:

- a) amphetamines
- b) cocaine

- c) opiates
- d) phencyclidine(PCP)
- e) marijuana

Drug Metabolite	Screening	GCMS Confirmation
Amphetamines	1000ng/ml	500ng/ml
<i>Methamphetamine</i>	1000ng/ml	500ng/ml
Cocaine	300ng/ml	150ng/ml
<i>Benzoyllecgonine</i>	300ng/ml	300ng/ml
Opiates	2000ng/ml	2000ng/ml
<i>Codeine</i>		
<i>Morphine</i>		
Phencyclidine(PCP)	25ng/ml	25ng/ml
Marijuana	50ng/ml	15ng/ml
<i>Carboxy-THC</i>		

Covered Employees – Any Town of Moultonborough *DOT Safety Sensitive* employee who must have a valid **CDL**, as a condition of employment. Employees, who possess a **CDL** but are not required to as a condition of employment, will not be assigned to duties requiring a **CDL** unless they meet the same criteria and participate in the same testing program as covered employees.

Department Authority – The individual(s) in a department with the authority to administer the policies of the Town of Moultonborough, personnel and operations of a department, e.g. Road Agent, Director of Public Works, Highway Superintendent, etc.

DER – Designated Employer Representative, is an employee authorized to receive confidential test results and communication from the MRO, SAP BAT, or DOT certified collector, and able to take immediate action to remove an employee from any Safety Sensitive Function . The Town of Moultonborough will also provide an alternate DER should the primary DER not be available.

Direct Observation – Direct observation will take place when an MRO reports to the employer or DER that a specimen creatinine is ≥ 2 but ≤ 5 mg/dl. The certified DOT collector may also request a direct observation be performed if behavior is indicative of substitution or adulteration, this would also include temperature out of range.

Driver – Any person who operates a commercial motor vehicle (**CMV**), including but not limited to:

Full time, regularly employed drivers; casual intermittent or occasional drivers; leased drivers and independent, owner-operated contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle (**CMV**) at the direction of or with the consent of an employer.

For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to an employer to drive a motor vehicle.

Employee Assistance Program (EAP) – A confidential counseling program available to all Town of Moultonborough employees.

Evidential Breath Testing Device – An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA’s “Conforming Products List of Evidential Breath Measurement Devices” (CPL), and identified in the CPL as conforming with the model specifications available from the NHTSA, Office of Alcohol and State Programs.

Medical Review Officer(MRO) – A licensed physician(medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s controlled substances testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test results together with his or her medical history and any other relevant bio-medical information.

Monitored Collection – A monitored collection will take place when the collector is using a multi-stall restroom and is unable to secure all sources of water and other substances that may be used to adulterate the specimen.

Negative Dilute – A negative dilute will not be accepted as a result for pre-employment. A negative result is needed in order to begin employment in a safety sensitive capacity with the Town of Moultonborough.

Pre-Employment Testing – Test must be performed prior to beginning any Safety Sensitive Function for the Town of Moultonborough. A **NEGATIVE** result being the only accepted result.

Positive Test – Alcohol and Drug test results that meet or exceeds standards verified by a MRO as outlined under **CFR 49 Part 40**.

Random Testing – A scientific method used to select employees for testing at random. This method will be performed yearly, and involve a minimum of 50% for drugs and 10% for alcohol of employees/positions requiring a **CDL**, selected at random throughout the year. The minimum percent to be tested may decrease or increase in subsequent years based upon the number of confirmed positive test results as stipulated by the DOT.

Reasonable Suspicion – (382.307) A written documentation by a supervisor, (who has attended a Supervisor Training Class 382.603) of the Town of Moultonborough official based on specific facts and reasonable inferences drawn and documented from those facts that an employee is under the influence of drugs or alcohol to the extent that job performance may be impaired or the ability to perform the job safely may be reduced. Circumstances which constitute a basis for determining “reasonable suspicion” may include but are not limited to:

- a) A pattern of abnormal or erratic behavior
- b) Direct observance of drug or alcohol use:
- c) Presence of the physical symptoms of drug or alcohol use(i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);

Safety Sensitive Function – (382.107) An employee is considered performing a safety sensitive function when performing, preparing to perform or having just completed any of the following activities:

- a) All driving time in a Commercial Motor Vehicle (**CMV**).
- b) All inspecting, servicing, maintaining or conditioning of **CMV**
- c) All time, in or on a **CMV**, other than driving.
- d) All time loading, unloading or preparing a **CMV** or supervising those activities.
- e) All time in readiness, or on call, to operate a **CMV** or waiting to be dispatched.
- f) All time repairing, obtaining assistance or remaining in attendance on a disabled **CMV**.
- g) All time related to accidents.

Screening Test – In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or other specimen. In controlled substances testing, an immunoassay screen to eliminate ‘negative’ urine specimens from further analysis.

Shy Bladder Log – If an employee is unable to provide a specimen, the collector will start a shy bladder log to document the amount of fluid intake, at the end of **3 Hours** if the employee is still not able to provide a specimen, the employee must go to a physician familiar with DOT Regulations and determine whether or not there is a legitimate medical reason for not providing a specimen at the time of collection. If no legitimate reason is found then it will be considered a refusal to test, the employee would then have to undergo and SAP evaluation and follow the prescribed treatment program.

Shy Lung – If an employee is unable to provide enough breath for a screening or confirmatory breath test, then the employee must go to a physician familiar with DOT regulations to determine whether or not there is a legitimate medical reason for not having enough breath. If no legitimate medical reason is found then it will be considered a refusal to test, the employee would then have to undergo and SAP evaluation and follow the prescribed treatment program.

Substance Abuse – Refers to patterns of controlled substance and/or alcohol abuse resulting in health consequences and/or impairment in social, psychological and occupational functioning.

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 addiction counselor(certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Screening Test Technicians – An individual who instructs and assists individuals in the alcohol screening testing process and operates a non-evidential alcohol screening device.

Temperature Out of Range – If the specimen provided is outside of the acceptable range (between 90 and 100 degrees F) a comment is made on the remarks line of the Chain of Custody form , the first specimen will be sent to the lab for analysis, and immediately an observed urine collection will take place.

DRIVERS SUBJECT TO CONTROLLED SUBSTANCES AND ALCOHOL TESTING.

As mandated by the Omnibus Transportation Employee Testing Act of 1991, DOT/ FMCSA controlled substances and alcohol testing regulations apply to every person who operates a Commercial Motor Vehicle (CMV) in interstate or intrastate commerce, and is subject to the commercial driver’s license requirements of **49 CFR** part 383.

The drivers to be tested under this policy are those required to have a Commercial Drivers License (CDL) and operate a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle;

- a) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of 10,000 pounds; or
- b) has a gross vehicle weight rating of 26,001 or more pounds; or
- c) is designated to transport 16 or more passengers, including the driver; or
- d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, **49 CFR** part 172, Subpart F.

TESTING OF SUPERVISORS

All supervisors who directly oversee or monitor the activities of employees requiring a **CDL** are subject to the testing rules and procedures outlined in this policy.

RESPONSIBILITIES

The Town of Moultonborough, as the employer will:

- a) Administer and execute the provisions of this policy and defining regulations. The Department Authority will appoint an authority to coordinate the program for the Town of Moultonborough.

- b) Pay all costs for mandatory testing, training and record keeping. The Town of Moultonborough may contract for testing and other services related to this policy and will ensure that procedures used for testing meet the requirements of reference (A), and DOT **49 CFR** part **40**. The Town of Moultonborough will closely monitor the contractor company performance to protect the employees, ensure the integrity of the testing processes, and safeguard the validity and of the test results.
- c) Provide annual training for all covered employees on the content of the policy and governing directives. Additional training will be provided when changes in the policy or those directives occur. (Material to be provided to employees is outlined in **49 CFR** §382.601).
- d) Provide specifically targeted training for supervisors and management personnel responsible for the performance of covered employees. This training will include a minimum of **one hour** of training on alcohol abuse and **one hour** on controlled substance use covering the physical, behavioral, speech, and performance indicators of probable participation in these activities.
- e) Ensure confidentiality of individual employee records kept under provision of this policy and governing directives. Except as required by law or expressly authorized or required by governing directives, employee records will be released to individuals or outside agencies only with the written authorization of the employee which indemnifies the Town of Moultonborough.
- f) Provide anti-drug use and anti-alcohol abuse training. Information on counseling and rehabilitation services will be provided through the Employee Assistance Program (EAP) or the Appointing Authority.
- g) Random testing will take place during working hours.
- h) If any employee is laid off for a period of 30 days or more the employee will take another pre-employment urine drug screen before beginning any Safety Sensitive Function for the Town of Moultonborough.

Supervisors, responsible for the safety and performance of employees assigned to them, will:

- a) Prohibit employees, about whom they have actual knowledge of prohibited conduct, from performing or continuing to perform safety sensitive functions.
- b) Observe and monitor the physical characteristics, conduct, behavior and performance of assigned employees for indications that they may be under the influence of drugs or alcohol. When personal observation provides 'Reasonable Suspicion', the employee will be immediately prohibited or removed from safety sensitive functions and directed to submit to appropriate testing. With the supervisor providing transportation to and from the collection site.
- c) Fully document, in writing within 24 hours, the circumstances, conditions and observances that result in the removal of an employee from safety sensitive functions.
- d) Immediately report to the responsible department head and program coordinator any violation of prohibited activities or prescribed procedures.
- e) Ensure that safety sensitive employees are scheduled for and attend required training on an annual basis.

- f) Make strong effort, short of detaining an employee against his/her will, to arrange transportation to the employee's residence whenever an employee is prevented from reporting for or removed from duty in accordance with this policy.

Employees, whose duties require a valid CDL, will:

- a) Submit to and cooperate with mandated drug and alcohol testing as delineated, under **49 CFR Part 40** and **FMSCA Part 382**. A **negative** pre-employment DOT **SAMSHA** approved 5 panel drug test is mandated prior to performing a safety sensitive function for the Town of Moultonborough, if alcohol testing is performed it must be in accordance with DOT alcohol testing guidelines outlined in **49 CFR Part 40**. A DOT safety sensitive employee will report for **RANDOM** drug and alcohol testing to a designated DOT compliant collection facility with in **one** hour from notification from the Town of Moultonborough.
- b) Not report for duty or remain on duty requiring the performance of safety sensitive functions while using 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 **CMV**. Employees must inform their department head and the program coordinator of any therapeutic drug use, which may interfere with DOT safety sensitive function.
- c) Not report for duty or remain on duty requiring the performance of safety sensitive functions while under the influence of alcohol. An alcohol concentration greater than 0.02 will preclude assignment to safety sensitive duties.
- d) Not use alcohol while performing safety sensitive functions.
- e) Not consume alcohol within four hours prior to performing safety sensitive functions.
- f) Not consume alcohol after an accident that requires alcohol testing for eight hours or until tested, whichever occurs first.
- g) Report immediately to their supervisor any disqualification's or incidents that may result in disqualification that occur on or off duty.
- h) Properly participate and successfully complete any rehabilitation program prescribed by a substance abuse professional (SAP). The SAP rehabilitation for illicit drugs and alcohol is the financial responsibility of the employer.

TESTING.

Requirements for controlled substance testing:

Pre-Employment Testing – (382.301) Prior to the first time a driver performs safety sensitive function for the Town of Moultonborough, the driver shall undergo testing for controlled substances as a condition of employment with the Town of Moultonborough prior to being used in a safety sensitive capacity. The Town of Moultonborough will not accept a **NEGATIVE DILUTE** result for a pre-employment test.

Random Testing – (382.305) Periodic, unannounced, scientifically random selection of covered DOT employees, identified by their social security numbers or employee ID, will determine the participants to meet the annual requirement for random alcohol testing. The percentage of covered employees tested will be at least 50% for controlled substance and 10% for alcohol or the minimum percentage applicable for that calendar year as promulgated by the **FMCSA** Administrator. Testing will be performed: while the employee is performing safety-sensitive functions; just prior to performing safety-sensitive functions; or just after performing safety-sensitive functions. Each driver selected shall have an equal chance of being tested each time the selections are made.

Post Accident Testing – (382.303) Any employee performing safety-sensitive functions with respect to a Town of Moultonborough commercial vehicle involved in an accident will be tested ideally within 2 hours or as soon as practicable, within eight hours of that accident, if: the accident involved loss of human life; or a citation for moving violation under State or local officials having independent authority, conforming to applicable requirements may be considered to meet this requirement. If testing is unable to be completed this must be documented and placed in the employee’s file, stating the reason why testing could not be completed during the appropriate time frame. Additional post accident testing may occur as soon as practicable should mitigating circumstances warrant.

<u>Type of Accident Involved</u>	<u>Citation issued to CMV Driver</u>	<u>Test must be performed by the employer</u>
i. Human fatality	Yes No	Yes Yes
ii. Bodily injury with immediate medical treatment away from the scene	Yes No	Yes No
iii. Disabling damage to the motor vehicle requiring tow away	Yes No	Yes No

Reasonable Suspicion Testing – (382.307) Testing will be required, within two hours, whenever an appropriately DOT trained supervisor, the supervisor will have undergone at least 60 minutes of training on alcohol misuse and an additional 60 minutes of controlled substance abuse; observes specific, contemporaneous articulable conditions of appearance, behavior, speech or body odor indicating prohibited use of alcohol by a covered employee. Testing may be directed just before, while, or just after the employee performs safety sensitive functions, in compliance with this policy.

Refusal to Test – Any employee for the Town of Moultonborough who refuses to submit to controlled substance testing in accordance with **49 CFR Part 40** will be subject to immediate suspension and disciplinary action up to and including termination.

Return to Duty Testing – (382.309) An employee who has engaged in conduct prohibited by this policy, involving alcohol, must have an alcohol test with results indicating alcohol concentration less than **0.02** before being assigned to safety sensitive functions. The employee must also follow the recommended treatment program prescribed by the SAP. An employee who has engaged in conduct prohibited by this policy involving illicit substances must have a **NEGATIVE** drug test before resuming a DOT safety sensitive function, a **NEGATIVE DILUTE** will not be accepted. The employee must also follow and be compliant with the recommended treatment program prescribed by the SAP.

Follow-up Testing – (382.311) Following return to duty after removal for alcohol or controlled substance misuse, an employee must successfully complete, or is participating in a SAP prescribed rehabilitation program and receive a letter of compliance. The employee will be tested a minimum of 6 times unannounced, in the first twelve months after return. Further follow-up testing may be conducted for up to 60 months at the discretion of the SAP. If an employee has a verified positive while participating in the prescribed treatment program the employee will be subject to disciplinary action up to and including termination.

Screening Testing – Any initial test for alcohol. This test is used to determine if confirmation testing is required. Any non-negative alcohol test greater than **0.02**, will result in the performance of a confirmation test.

Split Specimen – The amount of urine needed to complete the testing procedure in accordance with **49 CFR Part 40**. (A) 30 ml (B) 15 ml for a total of 45 ml.

Confirmation Testing – Any screening alcohol test resulting in a concentration of alcohol after a **15 minute** degravation period, concentration greater then **0.02** EBA will be followed with a second test to confirm the quantitative data of alcohol concentration. An employee who tests between **0.02** and **0.04** will be removed from duty requiring safety sensitive functions for 24 hours and required to have a return to duty alcohol test with a concentration of less than **0.02**. If the Alcohol concentration level is greater than **0.04** the employee will be removed from DOT Safety Sensitive Function and receive a SAP evaluation.

Adulteration and Substitution – Any employee of the Town of Moultonborough who, when reported out by the MRO adulterates or substitutes this his/her urine drug screen with be subject to disciplinary action, up to and including termination, this would included specimen not consistent with human urine.

NOTICE AND CONSENT

Before a drug and/ or alcohol test is administered employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of test results to those the Town of Moultonborough officials. A MRO may contact the applicant or DOT safety sensitive employee for verification of chemical or recent use of prescription and over the counter

medications as outlined in the DOT drug and alcohol process in accordance with **49CFR Part 40**.

TESTING TECHNIQUES

Drug Testing:

- a) Drug testing is accomplished by analyzing the employees' urine specimen (urinalysis). Specimens will be collected at a DOT compliant collection site selected by the Town of Moultonborough. The testing facility must assure that specimens collection be done in a dignified, professional and confidential manner in accordance with **49 CFR PART 40** and **FMCSA Part 382**. Once the employee provides a urine specimen, it is sealed and labeled by a certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee, and the specimen is shipped to a **SAMSHA** certified laboratory for GC/MS confirmation of the presence of controlled substances outline in **49 CFR PART 40**.
- b) All urinalysis procedures are required to include split-specimen techniques. Each urine sample is subdivided into two containers and labeled as primary (A) 30ml sample and secondary (B) 15 ml sample specimens. Both specimens are forwarded to the laboratory. Only the secondary (B) specimen may be used for a second confirmation test if requested by the employee, at the employees' expense.
- c) During testing, an initial screening test is performed. If the test is positive for one or more drugs, a confirmation test will be performed for each individual drug using gas chromatography/mass spectrometry (**GC/MS**) analysis. This test ensures that there is no cross reactivity resulting in false positive results for over the counter medications, prescriptions, herbs etc.
- d) All test results are reviewed by a DOT compliant physician Medical Review Officer (**MRO**) prior to results being reported to the Town of Moultonborough. In the event of a positive test result, the **MRO** will first contact the employee and conduct an interview to determine if there are any alternative legitimate reasons for the positive result (such as prescription medication). If the **MRO** determines there is a legitimate medical explanation for the presence of drugs, the results will be reported as negative. A verified positive result will be reported if the **MRO** determines there are no legitimate medical reasons for the presence of the offending drug.
- e) The **MRO** will attempt to contact the donor up to **72 hours** to give a legitimate medical reason for the offending substance, if no contact is made the **MRO** will contact the employer to locate the employee if possible then report the test as positive. The **MRO** will report all results within **48 hours** to the DER. The **MRO** does not require a consent for the release of information to discuss DOT safety sensitive laboratory results with a DOT SAP.

Alcohol Testing: Alcohol confirmation testing will be conducted utilizing a device in accordance with the **NHTSA CPL(Consumer Product List)**. The breath test must be performed by a certified Breath Alcohol Technician (**BAT**) trained in the use of the **EBT** and alcohol

testing procedures. Under certain circumstances, post accident tests conducted by law enforcement personnel will be acceptable.

Consequences – If any employee or applicant violates this policy, the Town of Moultonborough may consider, but is not limited to, the following:

Disqualification – An employee who is disqualified for committing a disqualifying offence under Federal, State or local laws will not perform DOT safety sensitive functions on any Town of Moultonborough vehicle before reinstatement. If the disqualification is for **90** days or greater, an employee, whose position requires a valid **CDL** will be terminated. At the sole discretion of the Town of Moultonborough, an employee may be reassigned, or demoted, to other duties for which qualified if the disqualification is less than **90** days and an employment position is available with the offending employee being qualified for such position in accordance with the employment position job description.

Positive Test Result – When a prescribed testing results in a verified positive drug and or alcohol test in accordance with DOT **49 CFR Part 40** and **FMCSA Part 382**, is an indication that an employee has engaged in conduct prohibited by this policy and governing directives, the employee will be immediately suspended without pay. The employee will be advised of resources available for evaluating and resolving problems associated with alcohol and controlled substance misuse, including the Town of Moultonborough's **EAP**. Names, addresses, and telephone numbers of substance abuse providers will be provided.

- a) An employee who has been evaluated or begun evaluation by a substance abuse professional (**SAP**), will be returned to pay status upon presentation to the Appointing Authority of a confirming written communications from the **SAP** stating the employee is compliant with their treatment program. The employee will notify the Town of Moultonborough of the progress of the evaluation within three days of commencing the evaluation, and results of the evaluation within three days of receipt of the results of the evaluation.
- b) An employee, whose position requires a **CDL**, who fails to participate in this evaluation within two weeks of being placed in non-pay status, or who fails to notify the Town of Moultonborough of the results of the evaluation within three days of receipt, will be terminated. The Town of Moultonborough reserves the right, at its sole discretion, to grant an extension of these deadlines for extenuating circumstances, but in no case shall participation in this evaluation or notification occur after **30** days of the employee being suspended without pay.
- c) An employee, voluntarily assigned duties requiring a **CDL**, who fails to participate in a DOT drug and alcohol program shall be permanently ineligible for future assignments requiring a **CDL**.

- d) Any applicant who is a current Town of Moultonborough employee who fails to participate shall be permanently denied employment in the position for which the application was made.
- e) In all cases the employee the employee will not be assigned to safety sensitive functions until mandated return to duty testing has been successfully completed.
- f) Positive results from return to duty testing, follow-up testing, alcohol concentration greater than **0.02** or presence of a controlled substance will result in termination.
- g) Any employee who tests positive in a second separate incident,, indicating continued, or reoccurring misuse of alcohol or controlled substance use, will be terminated.
- h) Job applicants will be denied employment with the Town of Moultonborough following a positive test result that has been verified, or the applicant does not request a confirmation test. Applicants shall be informed in writing if they are rejected on the basis of a verified positive alcohol test result and or a verified DOT drug test.

Refusal to Submit – Any employee who has been notified of the requirement for DOT drug and/or alcohol testing who fails to provide adequate breath without a medical explanation for alcohol testing, fails to provide adequate urine for a controlled substance testing without a medical explanation, or engages in conduct that clearly obstructs the testing process will be considered to have refused to submit to testing.

- a) Refusal to submit to testing will result in termination for an employee required by position to have a valid **CDL**.
- b) Other employees will be permanently excluded from assignments requiring a **CDL** and may be disciplined up to and including termination.
- c) A job applicant for a DOT Safety Sensitive position who refuses to consent to a DOT pre-employment drug and alcohol screening test will be denied employment with the Town of Moultonborough.

Rehabilitation Failure – When the evaluation of a substance abuse professional (**SAP**) determines that a rehabilitation program is required by an employee to resolve problems associated with alcohol or controlled substance abuse, the employee will properly follow the prescribed program as a condition of continued employment with the Town of Moultonborough.

- a) For employees required by position to have a **CDL**, failure to properly follow, or successfully complete, a prescribed rehabilitation program, as determined by a substance abuse professional (**SAP**), will result in termination.

Return to Duty – All DOT safety sensitive employees who violate the Town of Moultonborough DOT controlled substance policy must have a SAMSHA approved 5 panel **NEGATIVE** return to duty test before resuming a DOT safety sensitive function,

this would include an evaluation by a SAP. A confirmed EBA level between 0.02-0.39 is not required to have a SAP evaluation before returning to a DOT safety sensitive position.

Other Compliance – Any employee, or supervisor, who fails to comply with provisions and requirements of this policy, except as delineated above, will be subject to disciplinary action up to, and including termination.

CONFIDENTIALITY OF TEST RESULTS

- a) All information from an employee's or applicant's drug and alcohol test is strictly confidential. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released by the **MRO** to the Town of Moultonborough until verified. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. All positive test result will be maintained by the **MRO**, and reported to the Town of Moultonborough, where they will be kept on file, 5 years for positives and 2 years for negatives.
- b) Exceptions to these confidentiality provisions are limited to a decision maker in arbitration, litigation, or administrative proceedings arising out of a positive drug or alcohol test or other violation of these rules.
- c) Any unauthorized, or improper, disclosure of confidential information associated with the application of this policy will result in termination.

Date of Adoption:
December 11, 2003

Ernest E. Davis, Jr., Chairman
Karel A. Crawford
Russell C. Wakefield
BOARD OF SELECTMEN