

**CHITTENDEN COUNTY TRANSPORTATION AUTHORITY
DRUG AND ALCOHOL TESTING POLICY**

Effective on January 1, 1996; Revised on July 1, 2001;
Revised on August 1, 2002; Revised on October 17, 2005;
Revised on August 20, 2007; Revised July 28, 2008, Revised March 30, 2009.

A. PURPOSE

The **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** provides public transit and paratransit services for visitors to and residents of Chittenden County. Part of our mission is to ensure that this service is delivered safely, efficiently and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

Any provisions set forth in this policy that are included under the sole authority of **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** and are not provided under the authority of the above named Federal regulations are underlined.

This Policy will be amended as necessary to comport with changes to federal and/or state laws. When the Policy is amended, a new copy will be provided to all safety-sensitive employees.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full or part-time) when performing any transit-related business. A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or person(s) controlling the movement of revenue service vehicles and any other transit employee who is required to hold a Commercial Drivers License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of

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safety-sensitive positions that perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions.

C. DEFINITIONS

Accident means an occurrence associated with the operation of a revenue service vehicle, even when not in revenue service or which requires a Commercial Drivers License to operate, if as a result—

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- (3) One or more vehicles incur(s) disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Adulterated specimen. A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

Canceled Test is a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

Covered Employee means an employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function. (See Attachment A for a list of covered employees).

Designated Employer Representative (DER) An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

Department of Transportation (DOT) Department of the federal government which includes the US Coast Guard, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

Disabling damage means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device EBT A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the NHSTA conforming products list.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute is a drug test result with a creatinine level greater than or equal to 2mg/dl but less than 20 mg/dl. Drug test results with creatinine levels greater than or equal to 2 mg/dl but equal to or less than 5 mg/dl as negative-dilute require the MRO to order an immediate recollection under direct observation.

Negative test result for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative test result is a test result found to be adulterated, substitute, invalid, or positive for drug/drug metabolites.

Performing (a safety-sensitive function) means a covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive test result for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BAC or greater.

Prohibited drug means marijuana, cocaine, opiates, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Revenue Service Vehicles include all transit vehicles that are used for passenger transportation service or that require a CDL to operate. Include all ancillary vehicles used in support of the transit system.

Safety-sensitive functions include (a) the operation of a transit revenue service vehicle even when the vehicle is not in revenue service; (b) the operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL); (c) maintaining a revenue service vehicle or equipment used in revenue service; (d) controlling the movement of a revenue service vehicle and (e) carrying a firearm for security purposes.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy) or 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 or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Shy Bladder refers to any time a safety-sensitive employee is unable to provide a 45 ml. sample of urine in a single void within a three hour time period.

Shy Lung refers to any time a safety-sensitive employee is unable to provide an adequate sample of breath for alcohol testing.

Test Refusal The following are considered a refusal to test if the employee:

- Fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen;
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test the employer or collector has directed you to take;
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” or “shy lung” procedures;
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result;
- Failure or refusal to sign Step 2 of the alcohol testing form.

Verified negative test means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (DHHS).

Verified positive test means a drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Under CHITTENDEN COUNTY TRANSPORTATION AUTHORITY's own authority, supervisory personnel will also be trained on how to intervene constructively.

Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in Attachment B of this policy.

E. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following:

Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use

of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- (2) Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions.

F. PROHIBITED CONDUCT

- (1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended. Any safety-sensitive employee who is in possession of an illegal controlled substance while on duty (either on or off CCTA property) will be terminated from employment.
- (2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities.
- (3) CCTA shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- (4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- (5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- (6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

- (7) **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY**, under its own authority, also prohibits the possession of alcohol at all times the employee is on duty, (either on or off CCTA property) therefore possession of alcohol during this time will result in disciplinary action up to and including discharge.
- (8) Consistent with the Drug-free Workplace Act of 1988, all **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit company premises, transit vehicles, while in uniform or while on **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** business.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1988, all employees are required to notify the **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q.9 of this policy.

H. TESTING REQUIREMENTS

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49CFR part 40. All covered employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy.

A drug test can be performed any time a covered employee is on duty. An alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function.

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY**. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q.3 of this policy. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal and will result in the employee's removal from duty and disciplined as defined in Section Q.3 of this policy. Refer to Sections C and Q.3 for behavior that constitutes a refusal to test.

I. DRUG TESTING PROCEDURES

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent

with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample.

The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee.

CHITTENDEN COUNTY TRANSPORTATION AUTHORITY will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however, CHITTENDEN COUNTY TRANSPORTATION AUTHORITY will seek reimbursement for the split sample test from the employee.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** to retest the employee under direct observation.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.

Observed collections:

Consistent with 49 CFR, part 40, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- (1) The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** that there was not an adequate medical explanation for the result; or
- (2) The MRO reports to **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; or
- (3) Are a requirement, rather than optional, for all return-to-duty and follow-up drug testing.
- (4) The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or
- (5) Items such as prosthetic devices designed to carry clean urine with both male and female donors. The observer will have the employee raise and lower clothing, and then put it back into place for the observed collection; or
- (6) The temperature on the original specimen was out of range.
- (7) The creatinine concentration of the sample is greater than or equal to 2mg/dl but less than or equal to 5mg/dl.

Negative Dilute Re-Testing:

Drug testing for any circumstances (pre-employment, random, reasonable suspicion, post-accident, return to duty or follow-up) with a result of *negative dilute* will require a re-test as soon as is practical after the result of the first test is known, with no advance notice. The result of the second test will be the result of record.

J. ALCOHOL TESTING PROCEDURE

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT).

Alcohol screening tests may be performed using a non-evidential testing device that is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.

The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using an NHTSA-approved EBT operated by a trained BAT.

The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q.4-5 of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Sections Q.6 and Q.9 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

CCTA affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

K. PRE-EMPLOYMENT TESTING

All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.

- (1) All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant shall not be hired into a covered position unless the applicant takes a drug test with verified negative results.
- (2) If an applicant fails a pre-employment drug or alcohol test, the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Evidence of the absence of drug dependency from a Substance Abuse Professional that meets with 49 CFR part 40 as amended and a negative pre-employment drug test will be required prior to further consideration for employment. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- (3) When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q.4-5 and 9 herein.

- (4) If a pre-employment/pre-transfer test is canceled, **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** will require the applicant to take and pass another pre-employment drug test.
- (5) In instances where a covered employee is on extended leave for a period of 90 days or more regardless of reason, the employee will be required to take a drug test under 49 CFR Part 655 and have negative test results prior to conducting safety-sensitive job functions.
- (6) An applicant with a negative dilute test result will be required to retest as per the conditions described in Section I.
- (7) Applicants are required to provide authorization of CCTA to obtain previous DOT covered employer drug and alcohol test results for the previous 2 years —Failure to do so will result in the employment offer being rescinded.
- (8) Applicants are required to sign a statement saying they have not failed a DOT pre employment drug test during the previous two years.

L. REASONABLE SUSPICION TESTING

All **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there are reasons to believe that drug or alcohol use is impacting job performance and safety. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

CHITTENDEN COUNTY TRANSPORTATION AUTHORITY shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation that might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q.4-5 and 9 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q.3 of this policy.

A written record of the observations that led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation prior to the release of the test results. This written record shall be submitted to the **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** management and shall be attached to the forms reporting the test results.

When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred to the SAP for an assessment. **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** shall place the employee on administrative leave in accordance with the provisions set forth under Sections Q.7-8 of this policy. Testing in this circumstance would be performed under the direct authority of the **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY**. The individual will be placed on administrative leave pending the results of the test. The results of the test will determine what action will be taken. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.4-5 and Q.9. This is applicable ONLY to those individuals who self-admit prior to being notified to provide either a urine sample for drug testing or a breath sample for alcohol testing. Individuals who admit to having a problem when asked to submit to either a drug or alcohol test given for any reason are required to submit to the test.

Any applicant, employee or transferee into safety sensitive duties with a negative dilute test result will be required to retest as per the conditions described in Section I.

M. POST-ACCIDENT TESTING

All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident.

In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operators' performance can be completely discounted as a contributing factor to the accident.

- (1) As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.
- (2) The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and within 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test

within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

- (3) Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following an accident or until he/she undergoes a post-accident alcohol test.
- (4) An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- (5) Nothing in this section shall be construed to require the delay of necessary medical attention for the injured 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.
- (6) In the rare event that **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

- (1) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year.
- (2) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals fifty percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
- (3) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection and notification of the individuals who are to be tested.
- (4) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool.
- (5) Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can only be performed just before, during, or just after the performance of a safety sensitive duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- (6) Employees are required to proceed immediately to the collection site upon notification of their random selection.

Any applicant, employee or transferee into safety sensitive duties with a negative dilute test result will be required to retest as per the conditions described in Section I.

O. RETURN-TO-DUTY TESTING

CHITTENDEN COUNTY TRANSPORTATION AUTHORITY'S policy pertaining to any positive drug or alcohol test given for any reason will result in **immediate removal from safety-sensitive duties and referred to a DOT qualified Substance Abuse Professional (SAP) for evaluation.** Consistent with FTA regulations the safety-sensitive employee will not be allowed to return to their safety-sensitive functions until CCTA receives documentation from the SAP allowing the employee to return to safety-sensitive duties. At that time CCTA will require the safety-sensitive employee to undergo a Return to Duty Drug and or Alcohol Test as directed by the SAP. The results of that test must be negative in order for the safety-sensitive employee to return to safety-sensitive duties.

P. FOLLOW-UP TESTING

CHITTENDEN COUNTY TRANSPORTATION AUTHORITY'S policy pertaining to any positive drug or alcohol test given for any reason will result in **immediate removal from safety-sensitive duties and referred to a DOT qualified Substance Abuse Professional (SAP) for evaluation.** Therefore consistent with FTA regulations follow-up testing will be conducted by CCTA as directed by the SAP.

Q. RESULT OF DRUG/ALCOHOL TEST AND CONSEQUENCES

Any applicant, employee or transferee into safety sensitive duties with a negative dilute test result will be required to retest as per the conditions described in Section I.

Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP.

A positive drug and/or alcohol test will also result in disciplinary action as specified herein.

- (1) As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY's** Drug and Alcohol Program Manager will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
- (2) The employee shall be referred to a Substance Abuse Professional for an assessment. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Refusal to see a SAP will be considered a direct act of insubordination and will result in termination.

- (3) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and will result in termination and referred to a SAP who can assist them. A test refusal includes the following circumstances.
- (a) A covered employee who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests;
 - (b) A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests;
 - (c) A covered employee who is suspected of providing false information in connection with a drug test;
 - (d) A covered employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation;
 - (e) A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame;
 - (f) A covered employee whose urine sample has been verified by the MRO as substitute or adulterated;
 - (g) A covered employee who admits to adulterating or substituting a specimen to the MRO during an invalid result review;
 - (h) A covered employee fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer;
 - (i) A covered employee fails to remain at the testing site until the testing process is complete;
 - (j) A covered employee fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
 - (k) A covered employee fails to permit the observation or monitoring of a specimen collection;
 - (l) A covered employee fails or declines to take a second test the employer or collector has directed you to take;
 - (m) A covered employee fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;
 - (n) A covered employee fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector behave in a confrontational way that disrupts the collection process).
 - (o) Failure to sign Step 2 of the Alcohol Testing form.
- (4) For the first instance of a verified positive drug test or a an alcohol test ≥ 0.04 submitted for random, post-accident or reasonable suspicion the safety-sensitive employee will be subject to disciplinary action up to and including discharge. At a minimum the employee shall be removed from safety-sensitive duties and mandatory referral to Substance Abuse Professional for assessment. Any safety-sensitive employee who is allowed to return to duty following a verified positive drug or alcohol test will be immediately terminated upon the occasion of his/her subsequent verified positive drug and or alcohol test given for any testing circumstance.

- (5) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the workday whichever is longer and may be grounds for referral to the SAP for assessment and treatment consistent with Section Q.4-5 and Q.9 of this policy. At the discretion of CCTA the employee may or may not be paid for the period during which they are removed from performing safety-sensitive duties. Payment will resume when the employee is allowed to return his/her safety-sensitive duties.
- (6) Safety-sensitive employees who are awaiting reasonable suspicion test results will be suspended without pay, pending those results. If the results are negative for all tests given, employees will be reinstated to their safety-sensitive position with back pay.
- (7) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or administrative leave to participate in the SAP prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program and releases him/her to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.
- (8) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- (a) Mandatory referral to a Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - (b) Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY's** employment.
 - Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy;
 - (c) Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
 - (d) A self-referral or management referral to the SAP that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q.4-5 and Q.9 of this policy.
 - (e) Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q.4-5 of this policy.
 - (f) A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY.**
 - (g) A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- (9) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 655 for a positive test or test refusal are not subject to arbitration.

PROPER APPLICATION OF THE POLICY

CHITTENDEN COUNTY TRANSPORTATION AUTHORITY is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

S. INFORMATION DISCLOSURE

Drug/alcohol testing records shall be maintained by the **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

- (1) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.
- (2) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor and Human Resources Manager on a need to know basis.
- (3) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- (4) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding. The information will only be released with binding stipulation from the decision maker will make it available only to parties in the preceding.
- (5) Records will be released to the National Transportation Safety Board during an accident investigation.
- (6) Records will be released (bi-annually) to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- (7) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over **CHITTENDEN COUNTY TRANSPORTATION AUTHORITY** or the employee.

- (8) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 necessary legal steps to contest the issuance of the order will be taken.
- (9) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

T. SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s):

Ken Robertson, Operations Manager: is available to answer any questions regarding the CCTA policy or any other aspects of the CCTA drug-free and alcohol-free transit program. He is available during normal business hours, after hours for emergencies and post accident testing. You may reach him by calling (802) 864-0211 or after hours, at (802) 343-0571.

Peter Aube, Maintenance Manager: is available to answer any questions regarding the CCTA policy during Donna Rae's absence or unavailability. During normal business hours Peter can be reached at (802) 864-0211 after hours contact him at his home at (802) 377-9751.

Medical Review Officer

Name: Dr. Richard Brody
Title: Certified MRO
Address: 200 North Main St., E. Longmeadow, MA 01028
Telephone Number: 413 525-6003

Substance Abuse Professional

Name: Gordon Peterson, Workplace Solutions
Address: 166 Battery Street, Burlington, VT 05401
Telephone: (802) 658-1788, 1-800-639-1596

U. DHHS Certified Laboratory Primary Specimen

Name: Clinical Reference Laboratory
Address: 8433 Quivira, Lenexa, KS
Telephone Number: 800-445-6917

V. THIRD PARTY ADMINISTRATOR

CCTA has created a Consortium administrated by the CCTA. The CCTA has contracted the services of a Third Party Administrator, ParaMed Plus, Inc. for the purpose of administering a CCTA membership drug and alcohol-testing program. They may be contacted at:

Louise or Greg Sylvain
ParaMed Plus, Inc.
27 Gable Place
Barre, VT 05641
(802) 476-9201

This Policy was adopted by the CHITTENDEN COUNTY TRANSPORTATION AUTHORITY'S BOARD OF DIRECTORS effective on January 1, 1996; Revised on July 1, 2001; Revised on August 1, 2002; Revised on October 17, 2005; Revised on August 20, 2007; Revised on March 30, 2009.

Attachment A

CCTA has reviewed the actual duties performed by of each category of employee and determined the following categories to be in Safety Sensitive positions.

Safety Sensitive Positions:

Dispatchers

Bus Drivers

Van Drivers

Mechanics

Custodians- a category of the mechanics that work on or drive buses

The following supervisors are responsible for dispatch duties and therefore these positions are considered safety-sensitive:

Operations Manger

Maintenance Manager

Assistant Operations Managers

Field Supervisors

POLICY EXEMPTIONS

- ◆ Vanpool drivers are exempt. Volunteer drivers are exempt unless driving a vehicle designed to transport sixteen or more passengers, including the driver, or unless providing a charitable service expecting to receive a benefit.
- ◆ Contract mechanics are exempt.
- ◆ Contracted taxi operations are exempt as passengers are free to choose any operator.

Attachment B Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, 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.

A. Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

B. Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

C. Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.

- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

D. The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

E. Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

Attachment C
Minimum Thresholds

INITIAL TEST CUTOFF LEVELS

	<u>(ng/ml)</u>
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000
Phencyclidine	25
Amphetamines	1,000

CONFIRMATORY TEST CUT/OFF
LEVELS (ng/ml)

Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamines	500
Methamphetamine	500

Attachment D
Example of a
RETURN - ENTRY CONTRACT

I, _____ agree to submit to at least six (6) more unannounced follow-up drug tests for a period of one (1) to five (5) years with at least six (6) tests performed in the first year.

I also agree to complete the rehabilitation plan prescribed by the Substance Abuse Professional.

I understand failure to comply with these requirements is grounds for termination.

Employee Signature Date

Supervisor Printed Name Supervisor Signature Date

Substance Abuse Professional Substance Abuse Professional Date
Printed Name Signature