



VERMONT

AGENCY OF TRANSPORTATION

**Federal Motor Carrier
Safety Administration
Title VI Program
Compliance Plan
FY 2023**

Vermont Agency of Transportation
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FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

TITLE VI PROGRAM COMPLIANCE PLAN 2023

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I. TITLE VI PROGRAM PLAN PURPOSE

The Vermont Department of Motor Vehicles' Title VI Program Plan is prepared in accordance with 49 Code of Federal Regulation 21 and 49 Code of Federal Regulation Part 303. This plan provides interested individuals with specific information that explains the Department's Title VI Program Plan activities pertaining to organization and staffing, monitoring and review processes, complaint procedures, and Title VI Program Plan assurances.

The provisions of this Title VI Program Plan apply to all recipients of Federal assistance with and through the Vermont Department of Motor Vehicles. A recipient includes any public or private entity or any individual receiving the benefits of any Federal Motor Carrier Safety Administration Program. The program applies to all phases of the Vermont Department of Motor Vehicle operations.

VERMONT DEPARTMENT OF MOTOR VEHICLES

II. TITLE VI PROGRAM POLICY STATEMENT

It is the policy of the Vermont Department of Motor Vehicles, in accordance with Title VI of the Civil Rights Act of 1964 and the Assurances set forth in the Vermont Department of Motor Vehicles' Title VI Plan to ensure that "no person shall on the grounds of race, color, national origin, sex, age, disability, low-income or LEP, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity" for which the Vermont Department of Motor Vehicles receives Federal financial assistance. Furthermore, it shall be the policy of the Vermont Department of Motor Vehicles to ensure that as a recipient of Federal-aid funding, it will ensure non-discrimination in all of its programs and activities, whether federally funded or not. The Vermont Department of Motor Vehicles is steadfast in its commitment to ensure the uniform adoption of this policy.

Accordingly, to ensure compliance with Title VI of the Civil Rights Act and other pertinent directives, the Vermont Department of Motor Vehicles commits to:

1. Conducting and operating each of its programs and facilities in compliance with all requirements imposed by, or pursuant to, Title VI of the Civil Rights Act and related Nondiscrimination authorities;
2. Providing non-discriminatory methods of administration for programs and to give other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such programs will comply with all requirements imposed by Title VI of the Civil Rights Act and related Nondiscrimination authorities;
3. Promptly taking any measures necessary to effect compliance with Title VI of the Civil Rights Act and related Nondiscrimination authorities.

Further, the Vermont Department of Motor Vehicles' efforts to prevent discrimination will address, but not be limited to, a program's impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, and investigation of complaints.

In accordance with Federal Motor Carrier Safety Administration regulations as required by 49 Code of Federal Regulation 21 and 49 Code of Federal Regulation Part 303, the Vermont Department of Motor Vehicles has developed procedures for prompt processing and disposition of Title VI complaints. Any person believing the Vermont Department of Motor Vehicles or any of its sub recipients has violated Title VI Program requirements in the administration of its programs or activities may file a complaint with the Vermont Agency of Transportation's Office of Civil Rights.

Overall responsibility for this policy is assigned to the Commissioner of the Vermont Department of Motor Vehicles located at 120 State Street, Montpelier, VT 05603. The Vermont Agency of Transportation's Deputy Chief of Civil Rights is appointed as the Title VI Coordinator for the Vermont Department of Motor Vehicles and is responsible for the implementation of the Vermont Department of Motor Vehicles' Title VI Program.

The Commissioner of the Vermont Department of Motor Vehicles has delegated sufficient responsibility and authority to the Title VI Program Coordinator and Bureau/Division/Office Managers to effectively implement the Agency's Title VI Program.

Individuals with questions or requiring additional information relating to the policy or the implementation of the Vermont Department of Motor Vehicles' Title VI Program requirements should contact the Title VI Coordinator, Office of Civil Rights and Labor Compliance located at 219 North Main Street, Barre, VT 05641 or call 802.595.6959.

Wanda L. Minoli

Wanda Minoli
Commissioner, Vermont Department of Motor Vehicles

06/21/22

Date

Patricia R. Martin

Patricia Martin
Title VI Coordinator

06/22/22

Date

The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No.1050.2.A

III. TITLE VI ASSURANCES

The Vermont Department of Motor Vehicles (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the Federal Motor Carrier Safety Administration (FMCSA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination in Federally Assisted Programs of The Department of Transportation-Effectuation of Title VI of The Civil Rights Act Of 1964*);
- 49 C.F.R. Part 27 (entitled *Nondiscrimination on The Basis of Disability in Programs or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. Part 28 (entitled *Enforcement of Nondiscrimination on The Basis of Handicap in Programs or Activities Conducted by The Department of Transportation*);
- 49 C.F.R. Part 37 (entitled *Transportation Services for Individuals with Disabilities (ADA)*);
- 49 C.F.R. Part 303 (FMCSA's Title VI/Nondiscrimination Regulation);
- 28 C.F.R. Part 35 (entitled *Discrimination on The Basis of Disability in State and Local Government Services*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their Federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice

considerations. See the following FHWA website for more information and facts about Environmental Justice: https://www.fhwa.dot.gov/environment/environmental_justice/fag/.

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the *"application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency."* When receiving Federal funds, Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT's *"Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons,"* dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FMCSA."

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FMCSA Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. §21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Motor Carrier Safety Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Vermont Department of Motor Vehicles, in accordance with the provisions of

Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, low- income or LEP, in consideration for an award. ";

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-

recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Vermont Department of Motor Vehicles also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FMCSA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FMCSA. You must keep records, reports, and submit the material for review upon request to FMCSA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Vermont Department of Motor Vehicles gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the FMCSA Program. This ASSURANCE is binding on the Vermont Department of Motor Vehicles, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FMCSA Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Wanda L. Minoli
Wanda Minoli
Commissioner, Vermont Department of Motor Vehicles

06/21/22
Date

Patricia R. Martin
Patricia Martin
Title VI Coordinator

6/22/22
Date

ASSURANCE APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, low-income or LEP, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, low-income or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FMCSA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FMCSA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

ASSURANCE APPENDIX B CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the Vermont Department of Motor Vehicles will accept title to the lands and maintain the project constructed thereon in accordance with **(Name of Appropriate Legislative Authority)**, the Regulations for the Administration of Federal Motor Carrier Safety Administration (FMCSA) Program, and the policies and procedures prescribed by the FMCSA of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Vermont Department of Motor Vehicles all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Vermont Department of Motor Vehicles and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Vermont Department of Motor Vehicles, its successors and assigns.

The Vermont Department of Motor Vehicles, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, national origin, sex, age, disability, low-income or LEP, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Vermont Department of Motor Vehicles will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

ASSURANCE APPENDIX C CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Vermont Department of Motor Vehicles pursuant to the provisions of Assurance 7(a):

- A The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, low-income or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Vermont Department of Motor Vehicles will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Vermont Department of Motor Vehicles will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the Vermont Department of Motor Vehicles and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

ASSURANCE APPENDIX D CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Vermont Department of Motor Vehicles pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, national origin, sex, age, disability, low-income or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, national origin, sex, age, disability, low-income or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Vermont Department of Motor Vehicles will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Vermont Department of Motor Vehicles will thereupon revert to and vest in and become the absolute property of Vermont Department of Motor Vehicles and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

ASSURANCE APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), ("*....which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*");
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, sex, age, disability, low-income or LEP);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*), as implemented by 49 C.F.R. § 25.1 *et seq.*

IV. DESCRIPTION OF FEDERAL PROGRAMS

FMCSA Grant Programs:

1. Motor Carrier Safety Assistance Program (MCSAP) Basic and Incentive Grant
2. High Priority (HP) Grant- CMV Safety Activities & Innovative Technology Deployment

1. Motor Carrier Safety Assistance Program (MCSAP) Basic and Incentive Grant:

MCSAP is a formula grant program in which Vermont receives funding from FMCSA based on the submission of a satisfactory Commercial Vehicle Safety Plan. The Department of Motor Vehicles (DMV) has been designated by the Governor to be the MCSAP Lead Agency and responsible for the funding received under this program. This funding supports a large part of Vermont's commercial vehicle activities; most notably, enforcement and education. MCSAP basic and incentive funds allow DMV to participate in enforcement activities which directly impact the public by improving highway safety. Enforcement activities allows DMV to inspect commercial vehicles and drivers for compliance with Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations, and to place unsafe vehicles and drivers out of service. DMV also uses this funding for educational outreach events to industry and the public. DMV participates in Vermont Truck and Bus Association and Vermont Fuel Dealer's Association meetings and trainings. DMV also presents trainings on various topics to a variety of audiences. The goal of this program is to reduce large truck and bus crashes by verifying compliance with regulations and educating the industry and public about general commercial vehicle safety.

A component of the MCSAP is New Entrant Safety Audits. Any carrier that receives a US DOT number is placed in the New Entrant Program and is required to undergo a safety audit. DMV is responsible for completing safety audits on new carriers within Vermont and part of Quebec, Canada. This safety audit is an opportunity to assess whether or not a carrier has basic safety management controls in place by evaluating a carrier's knowledge of, and compliance with, safety regulations. A safety audit is an educational opportunity for a carrier to have a review without fear of monetary penalties. The same safety audit process is completed regardless of the size of the carrier, so all carriers get the same benefits of this program. The goal of this program is to ensure new carriers operate safely; therefore, reducing large truck and bus crashes and improving highway safety.

Another component of MCSAP is the Border Enforcement Inspection Program. Commercial vehicles and drivers that are domiciled in a foreign country (Canada & Mexico), and operate within the United States, are subject to all the same safety requirements and regulations as U.S. domiciled vehicles and drivers. The goal of this program is to ensure that foreign domiciled commercial vehicles and drivers are complying with all applicable safety regulations and hazardous materials regulations; therefore, reducing large truck and bus crashes and improving highway safety.

2. High Priority (HP) Grant Program:

High Priority provides financial assistance to carry out activities and projects that augment motor carrier safety which include: supporting participation in performance and registration information

systems management; conducting safety data improvement projects; increasing public awareness and education on CMV safety; targeting unsafe driving of CMV and Non-CMV in areas identified as high risk crash corridors; improving the safe and secure movement of hazardous materials; improving safe transportation of goods and persons in foreign commerce; demonstrating new technologies to improve CMV safety; otherwise improving CMV safety and compliance with CMV safety regulations. DMV will also use funding to expand current CMV safety activities, such as details targeting controlled substance and alcohol use by CMV operators; and off peak CMV safety inspections.

Another component of High Priority is Innovative Technology Deployment. Vermont received funding to improve DMV's commercial vehicle and commercial driver information systems. This system is intended to improve information sharing between states and FMCSA, as well as improve the effectiveness of enforcement activities by identifying high risk commercial drivers and vehicles. One element that contributes to effective enforcement is the electronic screening of commercial vehicles based on credentials and safety fitness. This program also aims to make processes more streamlined and enable carriers and drivers to be more efficient. Vermont is required to be at a core compliant level. DMV could build upon core compliance by expanding electronic activities that result in efficiency. That efficiency could be for the State, such as a more efficient enforcement method, or for a commercial carrier such as another electronic service. This program is intended to make every entity involved in the commercial vehicle industry more efficient.

In January of 2021, the Advancing Racial Equity and Support for Underserved Communities Through the Federal Government Executive Order 13985 (EO 13985) was issued. EO 13985 calls on agencies to advance equity through identifying and addressing barriers to equal opportunity that underserved communities may face due to government policies and programs. Also in January of 2021, the Tackling the Climate Crisis at Home and Abroad Executive Order was issued (EO 14008.) EO 14008 places the climate crisis as a priority. Vermont DMV recognizes the need to be fair and equitable to all people, companies, and communities as part of administering all DMV federal grant programs. As such, and as requested by the Federal Motor Carrier Safety Administration, DMV addresses how a proposed project or program will address both Executive Orders. Any enforcement or educational opportunities must be equally distributed and not executed in a manner that it will benefit any person or group more than another. Likewise, any project or program must be examined to determine if it will have an impact on the environment, especially related to the climate crisis. An impact, either positive or negative, must be considered against the safety benefits. For example, programs that provide more through electronic screening of commercial vehicles could have a positive environmental impact by not requiring a commercial vehicle to stop and spend unnecessary time idling. This example is also based on the safety rating of a company with no regard to who owns or operates the company or commercial vehicle.

V. FY22 ACCOMPLISHMENTS AND BEST PRACTICES AND FY23 GOALS AND OBJECTIVES

Language Access and Translation Services:

During FY22, Vermont has welcomed approximately 220 Afghans seeking refugee and resettlement, and it's anticipated that number will continue to grow substantially during FY23. To accommodate the language needs of these newest refugees, the Vermont Department of Motor Vehicles (DMV) is working with the U.S. Committee for Refugees and Immigrants (USCRI) to translate documents customers are required to complete into the Pashto and Dari languages. The DMV had previously worked with USCRI to translate DMV forms into Arabic, Burmese, French (Canadian), Kirundi, Nepali, Serbo-Croatian, Somali, Spanish (LA), and Swahili as part of an earlier translation initiative in 2019 and 2020. Translation of documents into additional languages to accommodate the arrival of Afghani New Americans is an important business practice and welcoming gesture that is strongly supported by Vermont DMV Leadership and the Administration of Vermont Governor Phil Scott.

Over the last 42 years, over 8,000 refugees have started new lives in Vermont with assistance from USCRI, and the Vermont DMV is a critical partner and service provider to assist New Americans with their drivers' licenses and/or identification cards soon after their arrival in our state. The Vermont DMV also recognizes the value of translating forms into videos for customers in need of American Sign Language (ASL) translation services, and we are working to provide those as well. The Vermont DMV provides interpreters at no cost to the customer. If customers need an interpreter, they can set up an appointment with a foreign language interpreter. This service includes customers in need of ASL translation services.

During FY2022, the Vermont Office of Racial Equity has begun work on development of a Statewide Language Access Plan, in collaboration with State of Vermont Agencies and Departments, including the Vermont Agency of Transportation, which includes the Vermont DMV. A comprehensive proposal will be brought forth to the Executive, Legislative and Judiciary branches in the Fall of 2022, and be implemented during FY2023. The goal is to provide language access across the six dimensions of awareness, accommodation, availability, accessibility, affordability, and acceptability. It is evident that the state needs to develop more awareness of the issues and provide resources for Vermonters. Partnering with communities to build capacity for organizations would build trust with communities. Vermont is a rural state and so making sure the web is accessible is a challenge. Also, there are not many interpreters for our small state. Staff has indicated the need for a centralized repository to coordinate language access work so that Vermonters can reach an office not just by the web but by phone or in person.

Transportation Equity Framework:

During FY22, the Vermont Agency of Transportation launched a fifteen month project, in consultation with the State's 11 Regional Planning Commissions, and with the assistance of a team of subject matter consultants, to develop a new transportation equity framework that will increase mobility options, address environmental justice considerations, and enhance public engagement and economic opportunities for communities that have been historically underserved and or underrepresented. Transportation equity is necessary to ensure projects

minimize burdens and maximize benefits for disadvantaged and marginalized populations. The Transportation Equity Framework advisory workgroup includes representation by Agency leadership at the Vermont DMV and all other Divisions of the Vermont Agency of Transportation. This workgroup is engaged in the evaluation of current policies and practices, developing a new model for stakeholder and public involvement that will bring new voices to the table and elevate those previously marginalized or underrepresented in the planning process through direct community engagement and stakeholder interviews, conduct a gap analysis and needs assessment, develop new mapping tools using 2020 census data, and formulate recommendations and an implementation plan, including a draft report that will be delivered in the spring of 2023 for stakeholder and public review and comment.

VI. NOTIFICATION TO BENEFICIARIES / PARTICIPANTS

Please note: The following Notice to the Public has been posted at all publicly accessed DMV facilities and has been uploaded to the DMV website and may be found here: <https://dmv.vermont.gov/document/title-vi-notice-to-the-public>.

NOTICE TO THE PUBLIC

Vermont Department of Motor Vehicles Title VI Notice to Public/Beneficiaries/Participants

Vermont Department of Motor Vehicles hereby gives notice that it is the policy of the Department to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, E.O. 12898, and related Nondiscrimination authorities in all programs and activities. Title VI requires that no person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income or LEP, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Vermont Department of Motor Vehicles receives Federal financial assistance.

Any person who believes they have been aggrieved has a right to file a formal complaint with the Vermont Department of Motor Vehicles. Any such complaint must be in writing and filed with the Department Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Charge of Title VI Discrimination Complaint Form can be obtained from the Office of Civil Rights by calling 802.595.6959.

The mailing address for written complaints is as follows:

Vermont Agency of Transportation
Office of Civil Rights & Labor Compliance
219 North Main Street
Barre, VT 05633-5001

Complaints may also be submitted by telephone or fax. Contact numbers are as follows:

Phone: 802.595.6959
Fax: 802.828.1047

Electronic submission of complaints is also permitted. All complaints related to Title VI Program discrimination should be addressed to Patricia Martin, Title VI Coordinator, at the following address: patricia.martin@vermont.gov.

Written or faxed complaints must be signed by the complainant. Complaints submitted by telephone or e-mail, or unsigned written or faxed complaints must be followed by a complaint in writing, signed by the complainant or his/her representative within 10 business days of the initial verbal/electronic/unsigned complaint. If the complainant requires assistance to submit a written document, a member of the VTrans Office of Civil Rights will interview the complainant and assist the person in converting verbal complaints to writing. This document must be signed by the complainant or his/her representative.

To obtain additional information regarding the Title VI Program or the implementation of the Vermont Department of Motor Vehicles' Title VI Program requirements, please contact Patricia Martin, Title VI Coordinator, Office of Civil Rights & Labor Compliance by phone: 802.595.6959 or email: patricia.martin@vermont.gov.

VII. SUBRECIPIENT COMPLIANCE REPORTS

This does not apply to the Vermont Department of Motor Vehicles Title VI Program Plan as there are currently no sub recipients.

VIII. TITLE VI PROGRAM TRAINING

Vermont Agency of Transportation (VTrans) New Employee Welcome: At the inception of the pandemic, VTrans suspended most in-person training in compliance with the State's emergency orders and COVID safety protocols. In place of in-person training, VTrans has developed and deployed a diverse range of training tools and resources for its internal workforce, subrecipients, and contractors, including the use of virtual training platforms, e-Learning, and enhanced online training portals. In lieu of our pre-pandemic two day in-person New Employee Welcome (NEW) program, VTrans has developed and launched a six-month virtual Onboarding Program, consisting of monthly one-on-one virtual check-ins by Civil Rights staff with all new employees, small group virtual training meetings which include information about Title VI and non-discrimination policies, and an enhanced intranet/SharePoint site for New Employees, which includes information about Title VI and all Civil Rights programs and policies. During the past fiscal year, 168 new VTrans employees have participated in this training program, including 39 new DMV employees.

New Supervisor Orientation and Supervisory Training: We provide orientation and online training for all new supervisors, including all DMV supervisors, that are promoted or newly hired. In addition, all new supervisors must take "Essentials of Supervision," a four-day supervisory training, within six months of becoming a supervisor. All this training is now virtual and includes Title VI and non-discrimination information. During the past fiscal year, 39 new VTrans supervisors and managers have participated in this training program, including 12 new DMV supervisors and managers.

Leadership Institute: In July of 2017, VTrans launched a new Leadership Institute, a thirteen-month program for rising Agency leaders to expand their range of learning and participation in management practices, ongoing initiatives, organizational leadership, and public policy issues. Since the launch of this program, 92 Agency employees have completed this leadership training, including 15 DMV employees. The VTrans Office of Civil Rights develops and delivers a full day of training each year to the Leadership Institute participants, including Title VI, non-discrimination, and unconscious bias training. The latest delivery of this training took place on March 3, 2022, as a full day (six-hour) virtual training

Pathways to Supervision: In September of 2016, VTrans launched the Pathway to Supervision training program, a five-day program designed to provide the fundamentals of supervision to those looking to advance their careers, including team leaders and specialists. Since its inception, the program has graduated 439 VTrans employees, including 72 DMV employees. As part of this program, the VTrans Office of Civil Rights delivers a two-hour virtual training to all Pathways to Supervision participants, including Title VI, non-discrimination, workplace civility and unconscious bias training. During the past fiscal year, 27 VTrans employees have participated in this training program, including 11 DMV employees.

Specialized Training: Due to the nature of their job responsibilities, we provide specialized training for VTrans DMV employees which includes multicultural training and LEP training. During FY 2022, VTrans DMV employees received the following specialized non-discrimination training:

- Refresher Title VI Training: On 3/07/22 and 3/15/22, a refresher course of the Initial Title VI Training that includes FMCSA's Title VI Program Requirements was given to

the Commercial Vehicle Enforcement Unit, which includes 22 employees. Between the two sessions, all employees were trained.

Course Title: "Refresher Title VI Training"

Instructor: Captain Kevin Andrews, Chief of Safety

Locations: VTTC (3/07 and 3/15)

Course Overview: This training was delivered by lecture with audience participation and was intended to supplement the mandatory "Understanding & Overcoming Bias in the Workplace" training. "Understanding & Overcoming Bias in the Workplace" covered all the Title VI protections and policies, understanding bias, and how to overcome bias in depth. This training more narrowly focused on the connection between Title VI and FMCSA-funded programs. The purpose of the training was to answer four questions:

1. What is Title VI?
2. Who does it apply to?
3. Why do we need the training?
4. Where does a person make a complaint?

It included excerpts from Lester Finkle's (FMCSA Title VI Program Manager) Title VI PowerPoint presentation on how DMV will ensure that staff understands how their activities impact different population segments. Attendees were also shown where all DMV's Title VI information is located on DMV website and where/how a person can file a complaint. The Fair and Impartial Policy training was offered as part of the refresher training.

IX. ACCESS TO RECORDS

The Title VI Coordinator will maintain permanent records, which include, but are not limited to, implementation of Title VI Program requirements, Title VI complaints or lawsuits, and related documentation, records of correspondence to and from complainants, and Title VI investigations. These documents shall be made available (hard copy or email) to Federal Motor Carrier Safety Administration (FMCSA) staff upon request for compliance reviews and/or complaint investigations conducted by the FMCSA. These documents shall also be made available to FMSCA staff through periodic submission as required by FMCSA.

X. TITLE VI PROGRAM COMPLAINT PROCEDURES AND FORMS

TITLE VI PROGRAM COMPLAINT PROCEDURE

Any person who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination on the basis of race, color, or national origin, or FMCSA-only: sex, age, disability, low-income, or limited English proficiency (LEP) may file a complaint with the Vermont Agency of Transportation's Office of Civil Rights & Labor Compliance. Any such complaint must be in writing, signed, and filed with the Department Title VI Coordinator within one hundred eight (180) days following the date of the alleged discriminatory occurrence.

Complaints related to the Title VI Program discrimination may be submitted online by accessing information and a Title VI Complaint form on our website: <https://vtrans.vermont.gov/civil-rights/compliance/titlevi/complaint>. Once submitted, the AOT Title VI Coordinator will contact the complainant. To submit a Title VI complaint by mail, email, fax or phone, the contact information is as follows:

Patricia Martin, Title VI Coordinator
Vermont Agency of Transportation
Office of Civil Rights & Labor Compliance
219 North Main Street
Barre, VT 05641

Email: patricia.martin@vermont.gov
Phone: 802.595.6959
Fax: 802.828.1047

Written or faxed complaints must be signed by the complainant. Complaints submitted by telephone or e-mail, or unsigned written or faxed complaints must be followed by a complaint in writing, signed by the complainant or his/her representative within 10 business days of the initial verbal/electronic/unsigned complaint. If the complainant requires assistance to submit a written document, a member of the VTrans Office of Civil Rights will interview the complainant and assist the person in converting verbal complaints to writing. This document must be signed by the complainant or his/her representative. Federal and state law require that the complaint be filed within 180 days of the alleged incident of discrimination.

Once the complaint has been submitted in writing, VTrans will pursue the following steps in addressing the complaint:

1. The VTrans Title VI Coordinator will initiate a Complaint Form (see below).
2. Essential information on the form includes the following:
 - a. Date of the incident that is the subject of the complaint
 - b. Time of the incident
 - c. Location of the incident
 - d. Circumstances of the incident in as much detail as is available, including description of the issues and the names and job titles of those individuals perceived as parties in the complaint.

3. The completed form, along with the initial complaint letter and a summary of any other communication, will be submitted to the VTrans Chief of Civil Rights for review. The Chief of Civil Rights will determine the jurisdiction and acceptability of the complaint and any need for additional information. After any additional information is procured, the Chief of Civil Rights will determine whether to accept or reject the complaint.
4. The complainant will be provided with a written notification that VTrans has either accepted or rejected the complaint.
5. A complaint may be rejected for the following reasons:
 - a. More than 180 days passed between the alleged incident and the filing of the initial complaint.
 - b. The allegation does not involve a basis covered under Title VI, such as race, color, or national origin.
 - c. The allegation does not involve VTrans or one of its sub recipients of federal funds.
 - d. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
 - e. The complainant cannot be located after reasonable attempts.
6. An accepted complaint will be assigned a case number and be logged in a database and on the VTrans Title VI Complaint Log maintained by the VTrans Office of Civil Rights, identifying the complainant's name, date of the incident, alleged harm, and the race, color, or national origin of the complainant.
7. The VTrans Title VI Coordinator, assisted by other members of the Office of Civil Rights as necessary, will initiate an investigation of the complaint and complete a report within 90 days of the acceptance of the complaint. The report shall include a narrative description of the incident, identification of the persons interviewed, findings, and recommendations for disposition.
8. The report will be reviewed by the Chief of the VTrans Office of Civil Rights and referred to the Legal Section of VTrans, if deemed appropriate. The Chief will accept or reject the recommendation for disposition, in consultation with the Legal Officer, and if the individuals involved are found to be in noncompliance with Title VI Program requirements, remedial actions will be determined.
9. The results of the investigation and the Chief's determination will be mailed to the complainant. Notice shall include information regarding appeal rights of the complainant and instructions for initiating such an appeal. Notice of appeals are as follows:
 - a. VTrans will reconsider the determination if new facts come to light.
 - b. If the complainant is dissatisfied with the determination and/or resolution set forth by VTrans, the same complaint may be submitted to FMCSA for investigation. The complainant will be advised to contact Mr. Lester Finkle at the Federal Motor Carrier Safety Administration Office of Civil Rights, Room #W65-310, 1200 New Jersey Avenue, S.E., Washington, DC 20590.



**VERMONT AGENCY OF TRANSPORTATION
TITLE VI PROGRAM COMPLAINT FORM**

Type of Complaint:

External (from citizen/rider/contractor)

Internal (from staff/employee)

Race

Color

National Origin

FMCSA-Only:

Sex

Age

Disability

Low-income

LEP

Name of person filing complaint: _____ Phone: _____

Address: _____

Date of Report: _____ Date of Incident: _____ Time of Incident: _____

Location of Incident: _____

Circumstances of Incident and Names/Titles of Other Involved Parties: _____

Alleged Harm: _____

Title VI Related? Yes Maybe No (if in doubt, check "maybe")

Name and contact information of witnesses or other relevant parties: _____

Name of Person Taking Report Information: _____

TITLE VI COORDINATOR'S SECTION

Discussion with reporting person - Date: _____ Time: _____

Details of discussion: _____

Discussion(s) with involved VTrans employees:

Name: _____ Date: _____ Time: _____

Details of discussion: _____

Name: _____ Date: _____ Time: _____

Details of discussion: _____

Other action/follow up required (i.e., information gathering, investigation, interviews): _____

_____ Copy to Safety Officer when case is closed.

Signature of Title VI Coordinator: _____

XI. STATUS OF CORECTIVE ACTIONS IMPLEMENTED BY APPLICANT TO ADDRESS DEFICIENCIES PREVIOUSLY IDENTIFIED DURING A TITLE VI PROGRAM COMPLIANCE REVIEW

The Vermont Department of Motor Vehicles has never previously experienced a Federally conducted Title VI Program Compliance Review.

XII. COMMUNITY PARTICIPATION PROCESS

Please refer to the VTrans publication, "[Engaging the Public](#)," which details the processes followed by VTrans to conduct outreach to the public.

In the event that the Vermont Department of Motor Vehicles (DMV) changes services provided, or activities conducted at publicly accessed facilities and does engage the public, the DMV will provide a record summary to FMCSA for review.

With the creation of Title VI in 1964 and through Executive Orders, transportation equity has been defined as the needs of the users of the transportation system are to be reflected in the transportation services and projected projects. This policy has been improved over time to increase focus on equity so that disadvantaged and vulnerable citizens are not adversely impacted. Over a year ago, Justice40 was issued by the Biden-Harris administration to provide guidance when directing federal climate investments so that 40% should go to communities dealing with poverty and pollution. Americans facing aging infrastructure, lack of social support, natural disasters, and the pandemic will be part of the recovery provided by Justice40's guidance.

Justice40 will impact the way Vermont Agency of Transportation (VTrans) implements projects and programs. To help with the evaluation VTrans has hired a consulting firm that will outline recommendations and actions steps. The consulting firm that has put together an advisory working group from the DMV, VTrans and the state Regional Planning Commissions. Their goal is to improve equitable outcomes through transportation investments. Answering the questions of "What does transportation equity look like?" and "What is the state of transportation equity in Vermont?" This work is set to be completed by 2023.

The State of Vermont has moved forward with an action step by passing Act No. 154 on May 31, 2022. This "act establishes an environmental justice policy for the State of Vermont and requires the State agencies to incorporate environmental justice into their work, rules, and procedures. It establishes the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee to advise the State on environmental justice issues. It also requires the creation of an environmental justice mapping tool." It is important that this next effort move from not just evaluating gaps but to addressing the gaps by creating an improvement plan from setting goals, actions, identify funding to identifying responsibilities for task completion.

XIII. FAIR AND IMPARTIAL POLICING POLICY

State of Vermont Department of Motor Vehicles Enforcement and Safety Division

- I. Purpose: The purpose of this policy is to require that all department members conduct policing in a fair and impartial manner, to clarify the circumstances in which officers can consider personal characteristics, or immigration status, when making law enforcement decisions, and to reinforce processes and procedures that enable us to provide services and enforce laws in an equitable and impartial way.
- II. Policy: Employees of this department are prohibited from engaging in biased policing. This means no member of this department shall take actions based on any personal characteristics, or immigration status, except as described below, in the services our employees provide to the community in connection with our law enforcement activities.

Because partnership with Vermont residents is the most effective way to ensure public safety, maintaining the public's trust is a primary concern. To secure this trust personal characteristics, or immigration status should have no adverse bearing on an individual's treatment in department custody. Enforcement of civil immigration law is a federal responsibility, and this department should not engage in such enforcement except as otherwise outlined in this policy. Vermont residents are more likely to engage with law enforcement and other officials by reporting emergencies, crimes, and acting as witnesses; to participate in economic activity, and to be engaged in civic life if they can be assured that they will not be singled out for scrutiny on the basis of personal characteristics or immigration status.

To achieve these objectives this department will implement a combination of best practices including but not limited to; hiring, in-service training, policy development, supervision, reporting, and investigative processes, appropriate discipline, and community outreach/partnerships.

- III. Definitions:
 - a. "Biased policing": is conduct by law enforcement officers motivated by an individual's actual or perceived or self-identified personal characteristics.
 - b. "Personal characteristics": May include but is not limited to actual or perceived identity, race, ethnicity, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, age, religion, and socio-economic status.
 - c. "Immigration status": Generally, refers to the legal rights, if any, of a non-citizen to enter or remain in this country. Examples include, without limitation, "lawful permanent resident," "temporary worker," "refugee," and "undocumented."
 - d. "Reasonable suspicion": Suspicion, for which an officer can articulate factual reasons, does not need to rise to the level of probable cause.

- e. “Probable cause”: Facts or circumstances that would lead a reasonable person to believe that a crime has been committed, or is being committed, or is about to occur.
- f. “Member” or “employee”: any employee employed by [agency/department], regardless of their assigned tasks or duties.
- g. “Federal immigration authorities”: federal agencies, departments, or employees or contractors thereof, tasked with enforcement of immigration law and border entry, including without limitation, the Department of Homeland Security (DHS), Immigration Control and Enforcement (ICE), and U.S. Customs and Border Patrol (CBP).

IV. Policing Impartially:

- a. As required by law, all enforcement actions by law enforcement officers, such as investigation, detentions, traffic stops, arrests, searches, and seizures, etc. must be based on reasonable suspicion, probable cause or other or relevant exigent circumstances, supported by articulable facts, circumstances, and conclusions that support the given action.
- b. Inspectors of this department may take into account reported race, ethnicity, or other personal characteristics of persons based on credible, reliable, locally relevant, temporally specific information that links a person of specific description to particular criminal incidents and is combined with other identifying information.
- c. Under federal and state law, law enforcement agencies are required to provide qualified interpretation services, either in person or telephonically, to any person in need of it. Members of this department shall not contact federal immigration authorities for interpretation services unless a clear emergency requires it, and qualified interpretation services are not available through any other means. Unless one of the exceptions included in Section X applies, the department member shall not ask about the immigration status of the person for whom interpretation is sought.
- d. DMV complies with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities as identified in the FMCSA Title VI Program Assurance. These authorities prohibit discrimination on the grounds of the following protected groups: race, color, national origin, sex, age, disability, low income, and limited English proficiency. All standard operating procedures regarding traffic enforcement activities are conducted in a nondiscriminatory manner, including the selection of CMVs for inspection.

V. Community Relations: To cultivate and foster transparency and trust with all communities’ members of this department shall do the following when conducting pedestrian and vehicle stops or otherwise interacting with members of the public unless circumstances indicate it would be unsafe to do so:

- a. Be courteous and professional
- b. Introduce him/herself to person stating the officer’s name and name of this department. Inspector shall state the reason for the stop as soon as practicable

unless providing this information will compromise officer or public safety, or a criminal investigation.

- c. Ensure that a detention is no longer than necessary to take appropriate action for the known or suspected offense. The officer shall convey the purpose of the reasonable delays.
- d. Inspectors shall provide their name verbally when requested. Inspectors may also provide the information in writing or on a business card.
- e. In addition to the above, officers should answer relevant questions the person may have if doing so will not compromise safety and/or the investigation.

VI. Responding to Bias-Based Reports or Reports Regarding Bias from the Community:

- a. If any department member receives a call for service that appears to be based solely on an individual's perceived personal characteristics or immigration status, the member will attempt to ascertain if there are other circumstances or facts that would constitute reasonable suspicion or probable cause. If the complainant can offer no further information, the complainant will be advised that the shift supervisor will be in contact at the first opportunity.
- b. The shift supervisor should attempt to familiarize the caller with the department Fair and Impartial Policing policy. If the caller is concerned about the person's perceived immigration status, the caller should be referred to federal authorities.
- c. At the conclusion of the call, the shift supervisor will document the contact using the department's incident report system.
- d. If a department member receives a report of a potentially biased or hate-motivated incident, the department shall either dispatch an officer to evaluate the complaint or refer the caller to the officer in charge.

VII. Training:

- a. This department will ensure that, at a minimum, all members and employees are compliant with Vermont Criminal Justice Council and legislative requirements regarding fair and impartial policing training.
- b. Additional trainings may include but not be limited to instruction on anti-bias, power and privilege, non-English speaking communities, undocumented communities, and victim/witness services.
- c. DMV provides Title VI Program-related training to personnel conducting traffic enforcement, compliance reviews, and safety audit activities including the adherence to FMCSA Enforcement Memorandum regarding ELP versus LEP (MC-ECE-2016-006).

VIII. Accountability and Compliance:

- a. The process for making a complaint shall be readily available to the public. Reasonable efforts should be made to accommodate language barriers.

- b. All department members are required to promptly report allegations, complaints or knowledge of biased policing or suspected violations of this policy to their supervisor and the department's internal investigation function. Where appropriate, employees are required to intervene at the time the biased policing incident occurs.
- c. State law requires all Vermont law enforcement agencies to conduct valid investigations of alleged biased law enforcement, even if the named member or employee resigns. Effective July 1, 2018, this department is required to report to the Criminal Justice Council instances in which officers have willfully engaged in biased law enforcement or substantially deviated from policies prohibiting such enforcement. The regulating authority may, in turn, impose sanctions up to revocation of officers' certification.
- d. Violations of the policy shall result in appropriate disciplinary action as set forth in the department's rules and regulations. Supervisors shall ensure that all employees in their command are familiar and in compliance with the content of this policy. Supervisors will be alert for and respond to indications of potential biased policing.
- e. Supervisors shall ensure that all members of this department are familiar with the content of this policy and are operating in compliance with it. Supervisors should randomly review records such as reports and MVR (see MVR policy) and monitor the conduct of the members under their supervision for the purpose of ensuring compliance with this policy and to identify training issues.
- f. Upon the request from a member of the public, members will explain how a person should make a complaint regarding an officer's conduct in accordance with the Internal Affairs policy and procedures.
- g. This department will investigate alleged violations of this policy in accordance with established agency Internal Affairs / Citizen Complaint policy.
- h. Documentation- The department shall record:
 - i. The number of traffic stops;
 - ii. The characteristics of race or ethnicity of the person stopped. The identification of such characteristics shall be based on the observation and perception of the law enforcement officer responsible for reporting the motor vehicle stop and the information shall not be required to be provided by the person stopped.
 - iii. If the stop is for a law violation, the nature of the alleged law violation that resulted in the motor vehicle stop;
 - iv. Whether a warning or citation was issued, an arrest made, or a search conducted as a result of the motor vehicle stop. Search does not include a search incident to arrest or an inventory search; and

- v. Any additional information that the State of Vermont or this agency deems appropriate.
- i. DMV has adopted a Public Notice of Title VI Program Rights that informs the public regarding how to obtain more information or how to file a complaint. This public notice is posted for public access <https://dmv.vermont.gov/about-vermont-dmv/title-vi>. More information can also be found <https://vtrans.vermont.gov/civil-rights/compliance/titlevi>. Complaints filed by members of the Public (including drivers) are disposed of in accordance with Section X. Title VI Program Complaint Procedures and Forms (Pages #24-28) of DMV's FMCSA Title VI Program Compliance Plan <https://dmv.vermont.gov/about-vermont-dmv/title-vi>.

IX. Establishing Identity:

- a. Members of the department may make attempts to identify any person they detain, arrest, or who come into the custody of the department.
- b. Acceptable forms of identification, which must include a photograph of the individual, include, but are not limited to, driver's licenses from any U.S. state or foreign country, government-issued IDs by a U.S. jurisdiction, foreign passports, and consular ID cards. All identification is subject to reasonable scrutiny and follow-up for authentication consistent with the provisions of this policy.
- c. An individual shall not be stopped or detained solely for the purpose of establishing his or her identity. However, if the individual has already been stopped for a lawful purpose, he or she may be subject to objectively reasonable additional detention in order to establish identity (e.g., inquiry into identity during the course of a lawful traffic stop).
- d. In exercising their discretion to use federal resources to establish an individual's identity, department members should remain mindful that (1) their enforcement duties do not include civil immigration enforcement and (2) the department stands by its mission to serve all Vermonters, including immigrant communities, and to ensure trust and cooperation of all victims/witnesses. Contact with federal authorities made to determine an individual's identity is restricted to the purpose of determining his or her identity, though this provision does not prohibit any communication governed by 8 U.S.C. §§ 1373 and 1744. See Section XIII below.

X. Due Process, Immigration and Citizenship Matters - Federal Civil Immigration Law: Stops, Detention, Arrests and Administrative Warrants/ Detainers

- a. Department members do not have authority to enforce federal civil immigration law. The Constitution's Fourth Amendment and the Vermont Constitution's Article 11 right against unreasonable search and seizure apply equally to all individuals residing in Vermont.
- b. Department members will not inquire of a person about that person's immigration status unless it is necessary to the ongoing investigation of a criminal offense. Agency members shall not use individual personal characteristics to ask about or investigate immigration status. This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644. See Section XIII below.

- c. Department members shall not facilitate the detention of undocumented individuals or individuals suspected of being undocumented by federal immigration authorities for suspected civil immigration violations. This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644. See Section XI below.
 - d. Department members shall not initiate or prolong stops for the purpose of enforcing civil immigration matters, such as suspicion of undocumented status, nor shall they prolong stops for the purpose of allowing federal immigration authorities to conduct such investigation.
 - e. Department members shall not arrest or detain any individual based on an immigration "administrative warrant" or "immigration detainer." These documents have not been issued or reviewed by a neutral magistrate and do not have the authority of a judicial warrant. In addition, these documents do not meet the probable cause requirements of the Fourth Amendment and Article 11 of the Vermont Constitution.
 - f. Department members shall not hold for, or transfer people to, federal immigration agents unless the federal agents provide a judicial warrant for arrest. An immigration detainer is not a warrant and is not reviewed by a judge, and therefore is not a lawful basis to arrest or detain anyone. Valid criminal warrants of arrest, regardless of crime, shall not be confused with immigration detainers. This provision does not affect the proper handling of arrests and detentions associated with judicially issued criminal arrest warrants.
 - g. In assessing whether to seek continued custody under Vermont Rule of Criminal Procedure 3, department members shall not presume that undocumented individuals necessarily present a risk of flight. Instead, such judgments shall be made on the facts presented in each case, rather than made simply on the basis of immigration status. In addition, personal characteristics shall not be used as a reason to arrest someone instead of citing them, and personal characteristics shall not impact the decision on whether to seek continued custody pursuant to Vermont Rule of Criminal Procedure 3.
 - h. Personal characteristics and/or immigration status, including the existence of a civil immigration detainer, shall not affect the detainee's ability to participate in pre-charge or police-initiated pre-court processes such as referral to diversion or a Community Justice Center.
- XI. Federal Criminal Law: Border Crossings: Department members have authority to enforce federal criminal law. Unauthorized border crossings by persons who are not U.S. citizens or nationals can be a federal crime. (Generally speaking, unauthorized entry is a misdemeanor and unauthorized re-entry following prior deportation or immigration removal is a felony.). All laws and constitutional rights applicable to criminal investigations apply to the enforcement of federal criminal law. However, mere unauthorized presence in the country (e.g., overstaying a visa) is not a federal crime, but a civil infraction.
- a. As stated in Section XIII A, department members shall not inquire of a person about that person's immigration status unless it is necessary to the ongoing

investigation of a criminal offense. Agency members shall not use individual personal characteristics to ask about or investigate immigration status. (For example, you cannot ask someone about immigration status merely on the basis race, color, or perceived national origin.) This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644. See Section XIII below. If a department member is contacted by federal authorities, please refer to Section XIII, Collaboration with Federal Immigration Officers.

- XII. Victim and Witness Interaction: The cooperation of immigrant communities is essential to prevent and solve crimes and maintain the safety and security of all residents. The following provisions are intended to support crime victims/witnesses and enhance trust between the police and community.
- a. Department members shall not ask about or investigate immigration status of crime victims/witnesses, except as allowed in subsections (b) and (c) below. Federal law does not require law enforcement officers to ask about the immigration status of crime victims/witnesses.
 - b. To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, members of this department will not ask about, or investigate, immigration status of crime victims/witnesses unless information regarding immigration status is an essential element of the crime (such as human trafficking).
 - c. If a victim/witness is also a suspect, department members should follow the provisions in Section IX related to stops, detention and arrest and Section X(a) related to ongoing criminal investigations.
 - d. Department members will ensure that individual immigrants and immigrant communities understand that full victim services are available to documented and undocumented victims/witnesses. Department members should communicate that they are there to provide assistance and to ensure safety, and not to deport victims/witnesses. In considering whether to contact federal authorities pursuant to 8 U.S.C. § 1373, department members should remain mindful that (1) their enforcement duties do not include civil immigration enforcement and (2) the department stands by its mission to serve all Vermonters, including immigrant communities, and to ensure the trust and cooperation of all victims/witnesses.
 - e. Department members may, in appropriate situations, advise an individual that if they are undocumented that they may be eligible for a temporary visa.
- XIII. Collaboration with Federal Immigration Officers: Department members have no obligation to communicate with federal immigration authorities regarding the immigration or citizenship status of any individual. Two federal statutes, 8 U.S.C §§ 1373 and 1644, provide that local and state agencies and officials may not prevent or restrict their employees from communicating with other government officials (for example, ICE or CBP) regarding an individual's "citizenship or immigration status". Department members shall apply this policy in a manner consistent with the lawful operation of these two statutes.

- a. Information about an individual that is outside the scope of Sections 1373 and 1644 (i.e., information other than “citizenship or immigration status”) should not be shared with federal immigration authorities unless there is justification on the grounds of:
 - i. public safety,
 - ii. officer safety, or
 - iii. law enforcement needs that are not related to the enforcement of federal civil immigration law.
- b. Sweeps intended solely to locate and detain undocumented immigrants without reasonable suspicion or probable cause of a crime shall not be conducted unless acting in partnership with a federal agency as part of a formal agreement entered into by the governor.
- c. Individual members of this department are not permitted to accept requests by ICE or other agencies to support or assist in operations that are primarily for civil immigration enforcement. This directive does not apply to communications governed by 8 U.S.C §§ 1373 and 1644.
- d. Unless ICE or Customs and Border Patrol (CBP) agents have a judicially issued criminal warrant, or department members have a legitimate law enforcement purpose exclusive of the enforcement of civil immigration laws, department members shall not propose granting ICE or CBP agents access to individuals in this department’s custody.

XIV. SAVINGS CLAUSE

- a. Pursuant to 8 U.S.C §§ 1373 and 1644, this department may not prohibit, or in any way restrict, any government agent or official from sending to, or receiving from, federal immigration authorities’ information regarding the citizenship or immigration status, lawful or unlawful, of any individual. This department also may not prohibit, or in any way restrict, the sending, receiving, maintaining, or exchanging information regarding the immigration status of any individuals. Nothing in this policy is intended to violate 8 U.S.C §§ 1373 and 1644.

Commercial Vehicle Safety Alliance guidelines for selecting a commercial vehicle for a North American Standard Inspection.

These guidelines shall be substantially in accordance with the criteria set forth in the Commercial Vehicle Safety Alliance Operational Policy 13. This selection process shall not include any process or practice that is prohibited in the Department’s Federal Motor Carrier Safety Administration Title VI Program Compliance Plan and any additions or amendment thereto.

A. Department Responsibilities:

It shall be the responsibility of this Department to provide training on this Standard Operating Procedure to all individuals who complete North American Standard Inspections, New Entrant Safety Audits, or Carrier Investigations.

B. Inspector Responsibilities:

- 1) Any vehicle selected for inspection should be selected with the intention of promoting highway safety and protecting the integrity of the roadside safety data collection process. Any vehicle selected for inspection should be parked in an area adequate to protect the safety of the driver and Inspector in accordance with 49 C.F.R. § 350.211.
- 2) Any driver or vehicle subject to a North American Standard Inspection should have an accompanying Driver/Vehicle Examination Report documenting any violation(s) discovered, if any, including further violation description as necessary.
- 3) Inspectors should provide a copy of the inspection report to the driver, unless there is a legitimate reason why it cannot be such as printer failure, etc.
- 4) Inspectors should document the MCSAP inspection in the Valcour Records Management System.
- 5) While on mobile patrol, Inspector should focus on CMV drivers that commit a traffic violation or commercial vehicles that have a vehicle defect, vehicles that appear to be over statutory size or weight limits, or another legitimate documented reason.

C. Special Considerations:

- 1) MCSAP Inspectors shall not disturb or interrupt any commercial vehicle driver in an off-duty or sleeper berth status when legally parked for the purpose of conducting a random inspection. This does not include drivers that are logged off-duty or sleeper berth but are actually in an on-duty or driving status such as false log scenarios.
- 2) At fixed site locations, any method of vehicle selection could be used, such as, but not limited to; carrier safety rating, electronic screening information, observable defect, permit verification, or random selection.
- 3) No carrier or driver should be unnecessarily targeted unless a verifiable pattern is present, or the vehicle falls into the random vehicle selection process.
- 4) Level V Inspections are discouraged unless conducted on passenger carrier vehicles or in conjunction with a safety audit or carrier investigation.