

**RESOLUTION 2018-3**  
**LOCKPORT TOWNSHIP HIGHWAY DEPARTMENT**  
**WILL COUNTY, ILLINOIS**

**WHEREAS**, Lockport Township Highway Department (“HIGHWAY”) is authorized to employ individuals to perform various jobs and functions to provide assistance to residents of the Township; and

**WHEREAS**, HIGHWAY has in place an Employee Handbook for use in explaining the work expectations and policies of employment within HIGHWAY; and

**WHEREAS**, HIGHWAY endeavors to maintain updated policies and procedures for employees as required by law; and

**WHEREAS**, the U. S. Department of Transportation has adopted a revision to the Drug and Alcohol Policy as applied to all drivers who hold a commercial driver’s license as delineated in 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended; and

**WHEREAS**, HIGHWAY desires to update its own Employee Handbook concerning Drug and Alcohol Abuse Policy to comply with the revisions cited above.

**NOW WHEREFORE**, be it resolved as follows:

- A. The Employee Handbook, for the Lockport Township Highway Department, is to be amended as follows: The attached Drug and Alcohol Abuse Policy (see Policy attached) shall become the Drug & Alcohol Abuse Policy for HIGHWAY, effective on the date approved by the Lockport Township Board of Trustees.

B. In any and all other respects, the remainder of the Employee Handbook shall remain in full force and effect.

Passed this 11th day of September, 2018

With \_\_\_\_\_ members voting AYE,

With \_\_\_\_\_ members voting NAY, and

With \_\_\_\_\_ members voting ABSENT.

Trustee Gregg Bickus \_\_\_\_\_

Trustee Barb Boyce \_\_\_\_\_

Trustee Barb Delany \_\_\_\_\_

Trustee Dean Morelli \_\_\_\_\_

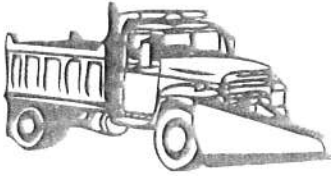
Supervisor Ron Alberico \_\_\_\_\_

**WITNESS:**

\_\_\_\_\_  
Lockport Township Highway Commissioner

\_\_\_\_\_  
Lockport Township Clerk

\_\_\_\_\_  
Lockport Township Supervisor



John Cielenski  
Highway Commissioner

Lockport Township Highway Commissioner

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## DRUG & ALCOHOL ABUSE POLICY

### Section 1 – PURPOSE

This policy complies with the U.S. Department of Transportation 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 382 and 40 are available in the employer's office and can be found on the internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.transportation.gov/odapc>. All drivers who hold commercial driver's license (CDL) are required to submit to drug and alcohol tests as a condition of employment in accordance to these regulations.

This policy supersedes any previous employer policy or agreement that may be in existence prior to the effective date of this policy. This policy becomes effective SEPTEMBER 11, 2018.

Portions of this Policy in bold and underlined reflect the employer's independent authority. Any drug or alcohol test performed under the employer's independent authority will be conducted on non-DOT forms.

Any questions or assistance needed regarding the employer's CDL drug & alcohol testing program should be directed to:

NAME(S): JOHN CIELENSKI HIGHWAY COMMISSIONER

OFFICE LOCATION: 111 SOUTH AVE.  
LOCKPORT, IL. 60441

PHONE (DAY): 815-726-6056 (CELL/NIGHT): 815-274-5383

### Section 2 - DEFINITIONS

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

**AIR BLANK** is a reading by an evidential breath testing device (EBT) of ambient air containing no alcohol. (For EBTs that use gas chromatography technology, it is a reading of the device's internal standard).

**ALCOHOL USE.** The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

**ALIUOT** – A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

**ASD (ALCOHOL SCREENING DEVICE).** A breath or saliva device, other than an evidential breath testing device, that is approved by the National Highway Traffic Safety Administration (NHTSA) and appears on ODAPC's (Office of Drug & Alcohol Policy & Compliance) Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the model specifications from NHTSA.

**BAT (BREATH ALCOHOL TECHNICIAN)** is an individual who instructs and assists individuals in the alcohol testing process and operates an EBT. A BAT may also act as a Screening Test Technician (STT) who instructs and assists individuals in the alcohol testing process and operates an ASD.

**CANCELED TEST** is a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or in which 49 CFR Part 40 otherwise requires a test to be cancelled. A cancelled test is neither a positive nor a negative test.

**CDL (COMMERCIAL DRIVERS LICENSE)** means a license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR Part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicle.

**CMV (COMMERCIAL MOTOR VEHICLE)** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle --

- (1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (2) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

**COLLECTOR** is a person who instructs and assists individuals at a collection site and who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

**CONFIRMATION (or confirmatory) TEST.** In drug testing, a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite. In alcohol testing, a second test, following a screening test with a result of 0.02 or higher that provides a quantitative data of alcohol concentration.

**CONSORTIUM** is the Mid-West Truckers Association Drug and Alcohol Testing Consortium (hereinafter called the Consortium). The Consortium is a service agent that provides and coordinates the provisions of a variety of drug and alcohol testing services through other service agents for its participants.

**CONTROLLED SUBSTANCES** – means the same as Drugs.

**DER (DESIGNATED EMPLOYER REPRESENTATIVE)** is an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of Part 40.

**DHHS (DEPARTMENT OF HEALTH AND HUMAN SERVICES)** is the Department or any designee of the Secretary, Department of Health and Human Services.

**DILUTE SPECIMEN.** A specimen with creatinine and specific gravity values that is lower than expected for human urine.

**DOT** means the U.S. Department of Transportation.

**DRIVER** means any person who operates any commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. Driver includes both applicants for employment (subject to pre-employment testing) and current drivers employed by this employer.

**DRUGS** – The drugs or classes of drugs for which tests are required under Parts 40 and 382.

**EBT (EVIDENTIAL BREATH TESTING DEVICE)** is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

**EMPLOYEE** means the same as Driver.

**EMPLOYER** means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to 49 CFR Parts 382 and 40. The term employer includes designated representatives or elected officials who are responsible for the compliance of the drug and alcohol testing regulations.

**FMCSA (FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION)** is the federal agency responsible for the administration of federal regulations for commercial motor vehicle drivers.

**HHS** means the same as the Department of Health and Human Services (DHHS).

**INITIAL TEST (or screening test)** - In drug testing, it is the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites. In alcohol testing, it is an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**INVALID DRUG TEST** is the result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

**LABORATORY** – Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under Part 40.

**MRO (MEDICAL REVIEW OFFICER)** is a licensed physician (Medical Doctor or Doctor of Osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results. The MRO must be knowledgeable of and have clinical experience in controlled substances abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug test results. The MRO must be knowledgeable of issues relating to adulterated and substituted specimens as well as the possible causes of specimens having an invalid result.

**NEGATIVE RESULT** – The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

**POSITIVE RESULT** – The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

**PRIMARY SPECIMEN** - In drug testing, it is the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing.

**RECONFIRMED** – The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

**REFUSAL TO TEST (alcohol or controlled substances)** means that a driver:

- 1) Fails to show up for any test within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete. This includes the failure of a driver (including an owner/operator) to appear for a test when called by the Consortium;
- 2) Fails to provide a specimen or fails to attempt to provide a saliva or breath specimen for any drug or alcohol test as required by this policy and 49 CFR Parts 382 and 40;
- 3) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring in providing a specimen;
- 4) Fails to sign the certification at Step 2 of the Alcohol Testing Form;
- 5) Fails to provide a sufficient amount of specimen or a sufficient amount of breath, when directed; unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure;
- 6) Fails or declines to take an additional test the employer or collector has directed the driver to take;
- 7) Fails to undergo an additional medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the employer concerning the evaluation as part of the shy bladder or insufficient breath procedures;
- 8) Fails to cooperate with any part of the drug or alcohol testing process (e.g., refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector);
- 9) For an observed collection, fails to follow the observer's instructions to raise his/her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the driver has any type of prosthetic or other device that could be used to interfere with the collection process;
- 10) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process; or
- 11) Admits to the collector or the MRO that the driver has adulterated or substituted the specimen.

It is also considered a refusal to test (which is the same as a positive test) when the driver refuses to test or when the MRO reports to the employer/Consortium that a driver has a verified adulterated or substituted drug test result.

**REJECTED FOR TESTING** – The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

**SAFETY SENSITIVE FUNCTION** means the time period when a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

Safety Sensitive Functions shall include:

- (1) All time at an employer or shipper plant, terminal, facility or other property, or any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- (2) All time inspecting equipment as required by 49 CFR Parts 392.7 and 392.8 or otherwise inspecting, servicing or conditioning any commercial motor vehicle at any time;
- (3) All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth (a berth conforming to requirements of 49 CFR Part 393.76);
- (5) All time loading and unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**SAMHSA (SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION)** is the federal agency under the Department of Health and Human Services (DHHS) responsible for the certification of laboratories used as part of the drug testing program.

**SAP (SUBSTANCE ABUSE PROFESSIONAL)** is a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**SPLIT SPECIMEN.** A part of the specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests it to be tested following a verified positive, adulterated or substituted test of the primary specimen.

**SPLIT SPECIMEN COLLECTION** – A collection in which the specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

**STT (SCREENING TEST TECHNICIAN)** is a person who instructs and assists individuals in the alcohol testing process and operates an alcohol screening device (ASD).

**SUBSTITUTED SPECIMEN** is a specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

**VERIFIED TEST** is a drug test result or validity test result from a DHHS/SAMHSA-certified laboratory that has undergone review and final determination by the MRO.

### **Section 3 – PROHIBITED BEHAVIOR**

49 CFR Parts 382 and 40 prohibit the use/misuse of controlled substances and/or alcohol by drivers of commercial motor vehicles.

No driver, at any work site, in any government-owned or leased vehicle, will possess any quantity of any controlled substance or alcohol, lawful or unlawful, which in sufficient quantity could result in impaired performance.

The employer will maintain a pre-employment screening program designed to prohibit the hiring of anyone who uses any illegal drugs.

No driver will report for duty or remain on duty requiring the performance of safety-sensitive functions (including driving a CMV) when the driver uses any drug or substance identified in 21 CFR 1308.11 Schedule 1. No driver shall report for duty, remain on duty or perform safety-sensitive functions (including driving a CMV) if the driver tests positive or has adulterated or substituted a drug test. The employer having actual knowledge that the driver has tested positive or has adulterated or substituted a drug test, shall not permit the driver to perform or continue to perform safety-sensitive functions (including driving a CMV). The employer can obtain actual knowledge that a driver has used alcohol or drugs based on the employer's direct observation of the driver, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or drugs or an driver's admission of alcohol or drug use.

The consumption of alcohol is prohibited while the driver is performing a safety-sensitive function. No driver shall report for duty or remain on duty, requiring the performance of safety-sensitive functions, while consuming or having consumed alcohol within four hours of reporting for such duties, or having a BAC of .04 or greater. The employer having knowledge of such conditions shall not allow a driver to perform or continue to perform safety-sensitive functions.

Any driver that has an alcohol concentration of .02 or greater, but less than .04, shall not perform or continue to perform safety-sensitive functions, nor shall the employer allow a driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled work period, but not less than 24 hours following the administration of the alcohol test.

No driver required to take a post-accident alcohol test shall use alcohol for up to eight hours after the accident or until a post-accident test is completed.

A driver who refuses to submit to a drug or alcohol test (see Refusal to Test definition in Section 2) when required in accordance with 49 CFR Parts 382 and 40 shall not perform or continue to perform safety-sensitive functions.

Any driver who has engaged in prohibited behavior in this Section (except when a driver has a BAC of .02 or greater, but less than .04), shall be advised by the employer of the resources available in evaluating and resolving problems associated with the misuse of alcohol and/or drugs by providing the driver with a listing of SAP's. **The driver will also be subject to the Disciplinary Action in this policy.**

### **Section 4 - TYPES OF TESTING**

According to Part 382, drivers shall be subject to pre-employment, random, post-accident, reasonable cause, return-to-duty and follow-up drug and/or alcohol testing.

**PRE-EMPLOYMENT TESTING** – The driver shall be drug tested and the employer must receive the verified negative drug test result for the driver from the MRO/Consortium before allowing a driver to perform a safety-sensitive function for the first time (Attachment A must be completed by the driver).

**RANDOM TESTING** – Testing rates will meet or exceed the minimum annual percentage rate set each year by the FMCSA Administrator. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>.

On a regular basis, the Consortium's service agent will, from the total group, randomly select by a computer-based random number generated program that is matched with the membership numbers, the drivers' names, their social security numbers or other comparable identifying numbers. Under the selection process used, each driver shall have an equal chance of being selected each time selections are made.

Once the Consortium's service agent makes the random selections, the random list will be forwarded to the Consortium. The Consortium will forward the random notices to Township Officials of Illinois, who will notify the employers under whose drug and alcohol policies those selected are covered. If any of the employer's drivers are selected, the employer will be given a date before which the driver must be tested per the random selection process. The employer shall ensure that random drug and alcohol tests conducted under the random testing regulations are unannounced. A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

**POST-ACCIDENT TESTING** - As soon as possible following an accident involving a CMV on a public road, a post-accident drug and alcohol test shall be conducted when one of the three circumstances below applies:

1. If an accident involves a fatality;
2. If a driver receives a citation for a moving traffic violation and the accident involves bodily injury to a person who as a result of the accident immediately receives medical treatment away from the scene of the accident, or,
3. If a driver receives a citation for a moving traffic violation and one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

If the alcohol test is not conducted within two hours following the accident, a record shall be prepared and maintained why the alcohol test was not promptly administered. If an alcohol test is not conducted within eight hours following the accident, the employer shall cease all attempts to complete the alcohol test and a record shall be prepared and maintained why the alcohol test was not promptly administered. (See Attachment C)

If a post-accident drug test is not conducted within 32 hours following the accident, the employer shall cease all attempts to conduct the drug tests and prepare and maintain on file a record stating why the drug test was not promptly administered. (See Attachment C)

A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer as a refusal to test. Nothing in this Section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.

The employer shall provide the driver with necessary post-accident information, procedures and instructions prior to the driver operating a CMV, so that the driver will be able to comply with the requirements of this section. (See Attachment D)

Drug and/or breath or blood alcohol tests conducted by federal, state or local officials, having independent authority for the test, shall be considered to meet the post-accident testing requirements, provided such testing conforms to the applicable federal, state or local drug and/or alcohol testing requirements and that the results are obtained by the employer.

**REASONABLE SUSPICION TESTING** - When the employer's designated person(s) has reasonable suspicion that a driver has violated Section 3 of this Policy, the driver shall be required to submit to an alcohol and/or drug test. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or drug test must be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the driver. (See Attachment E)

Alcohol testing is authorized only when observations of the driver are made during, just before or just after the period of the work day the driver is required to be in compliance with Part 382. The driver may be required to undergo reasonable suspicion alcohol testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased such functions.

If a reasonable suspicion alcohol test is not conducted within two hours after observing the driver, the employer shall prepare and maintain on file a record stating the reason why the test was not promptly administered. If the test is not conducted within eight hours after observing the driver, the employer shall cease attempts to conduct the test and prepare and maintain on file a record stating the reasons why the test was not administered.

No driver shall report for duty or remain on duty when the employer's designated person(s) has observed the driver using or under the influence of alcohol or impaired by alcohol. The employer shall not permit the driver to perform or continue to perform safety-sensitive functions until an alcohol test is conducted and the driver's alcohol test result is less than .02 or 24 hours have elapsed since the employer's first suspicion of the driver being under the influence of or impaired by alcohol.