

COOPERATIVE POLICY

NUMBER: 212

SUBJECT: Substance Abuse, Drug Free Workplace

OBJECTIVE:

- A. To provide a safe, drug-free workplace and to promote high standards of health and productivity for the Cooperative's employees.
- B. To carry out the Cooperative's basic responsibility to serve the public safely, economically and without undue interruption.
- C. To comply with applicable State and Federal laws and regulations governing drug abuse and controlled substances in the workplace.

POLICY:

A. DRUG-FREE WORKPLACE

The unlawful manufacture, distribution, dispensation, possession or use of any illegal drug or controlled substance is prohibited. Illegal drug means a substance whose use or possession is controlled by federal law, state law, or both federal and state law, but that is not being used or possessed under the supervision of a licensed health care professional. Violation of this policy while on the job or on the Cooperative's property, including Cooperative vehicles, shall result in disciplinary action up to and including termination.

B. ALCOHOL ABUSE

Alcohol use on the job or on the Cooperative's property is prohibited and alcohol consumption or use off the job that adversely affects an employee's job performance or jeopardizes the safety of other employees, the public or Cooperative equipment is prohibited. Violation of these provisions may result in disciplinary action up to and including termination.

C. REPORTING FOR WORK

Employees may be terminated without notice for reporting to work under the influence of alcohol, illegal drugs, or controlled substances; drunkenness while on duty; for possession of alcohol, illegal drugs, or controlled substances while on duty; and use or sales of alcohol, illegal drugs, or controlled substances while on duty.

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D. DRUG-FREE AWARENESS PROGRAM

The Cooperative will periodically inform supervisors and employees about its Substance Abuse Policy, the effects of controlled substance uses on health, safety and work, the behavioral and physical changes that may indicate substance abuse, the availability of an employee assistance program and the penalties imposed for drug abuse violations. Supervisors will also be informed of policies and procedures for identifying and handling suspected unlawful drug abuse.

E. EMPLOYEE ASSISTANCE PROGRAM

Through an Employee Assistance Program (EAP), the Cooperative will encourage and offer confidential assistance to employees with drug, alcohol and other problems that may adversely affect job performance or safety.

F. EAP COORDINATOR

The President/CEO will designate an EAP Coordinator who will:

1. Inform employees of EAP services, insurance coverage for treatment and medical leave policies.
2. Provide assistance to self-referred employees seeking counseling or rehabilitation for drug or alcohol problems.
3. Maintain a list of counseling, rehabilitation and/or treatment organizations specializing in substance abuse programs.
4. Document treatment prescribed for employees referred for treatment as a result of substance abuse tests or convictions.
5. Monitor progress of referred employees during and following the rehabilitation process.
6. Maintain confidentiality of employee records and involvement in the EAP as required by applicable laws and regulations.
7. Unless otherwise designated by the President/CEO, the Administrative Assistant to the President/CEO shall be the EAP Coordinator.

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G. DRUG AND ALCOHOL TESTS

All Cooperative employees will be required to submit to urine specimens or other testing designated by Cooperative under the following circumstances:

1. Pre-employment.
2. Reasonable cause. Without being all inclusive, “reasonable cause” as used in this paragraph exists when any of the following circumstances occur on Cooperative property, on the job and during employee work hours, including any meal or rest breaks:
 - a. An employee manifests specific, articulable symptoms while working that decrease or lessen the employee’s performance of the duties or tasks of the employee’s job position, including symptoms of the employee’s speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a process; or negligence that results in any injury to the employee or others. The employer's determination that reasonable suspicion exists to require the employee to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances. The employer's determination that reasonable suspicion exists to require the employee to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.
 - b. whenever there is reasonable suspicion of use, sale, purchase, transfer, or possession of illegal drugs or alcohol.
 - c. whenever there is reasonable suspicion of illegal use, sale or transfer of legal drugs.
 - d. whenever there is an incident of employee behavior evidencing a taking of needless risks or disregard for the safety of others.
 - e. whenever, considering the totality of the circumstances, any of the following occurs:

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1. whenever there is an accident involving a fatality or serious bodily injury requiring emergency medical treatment.
2. whenever there is a serious accident involving substantial vehicle or property damage.

Results of these tests will be considered along with other factors to determine drug and/or alcohol impairment or influence. Refusal to consent to such tests or an attempt to falsify or adulterate tests will result in termination of employment.

H. LEGAL DRUGS

If an employee has received a prescription from his or her health care provider, and has been informed by the health care provider that the employee should promptly inform the employee's supervisor of the legal drug(s) side effects, after such notice by the employee to his or her supervisor, the Cooperative may request a release from the employee to receive a certification from the employee's health care provider of the side effects stating what restrictions, if any, the employee may have while taking the legal drug(s). Based on this certification from the employee's health care provider, where the Cooperative determines that it is necessary or appropriate in order to protect the safety of the workplace and other employees or members of the public, the Cooperative may require the employee to use sick leave or take a temporary leave of absence without pay or comply with other appropriate remedies during the period the employee is consuming a legal drug or drugs.

The DOT's drug and alcohol testing regulations – 49 CFR Part 40, at 40.151 (e) do not authorize "medical marijuana" under a state law to be a valid medical explanation for a transportation employee's positive drug test result. Despite legalization of recreational cannabis (marijuana) use under Illinois law, the Cooperative remains a zero-tolerance and drug free workplace. Smoking, consumption, storage or use of cannabis (marijuana) in the workplace or is strictly prohibited. No employee is permitted to be under the influence of cannabis (marijuana) while on or off Cooperative property, including Cooperative vehicles, while performing the employee's job duties.

Any employee who has reported use of a legal drug in writing and who is thereafter permitted to work or operate equipment shall not be disciplined under this policy for such use. If an employee does not report a legal drug he/she will first receive a disciplinary suspension; for the second refusal to report a legal drug the discipline will be a suspension of two [2] weeks and the third refusal to report a legal drug will result in termination of employment and seniority.

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I. DISCIPLINARY ACTION FOR DRUG CONVICTION

Any employee convicted of a criminal drug statute violation occurring in the workplace or during the hours the employee is at work shall notify the Cooperative's President/CEO immediately. Within thirty (30) days after receiving notice of a conviction for such violation by the employee or otherwise, the Cooperative:

1. Will take appropriate personnel action against the employee up to and including termination; and/or
2. May require the employee to satisfactorily participate in an approved employee assistance program.

J. FOLLOW-UP PROCEDURES

The Cooperative will require an employee who is participating in a drug treatment program to undergo follow-up testing and to continue in an after-care program at the sole discretion of the Cooperative's management. The after-care program and periodic testing shall not continue longer than sixty (60) months following the employee's return to work.

When an employee who after having tested positive is placed in the Cooperative's EAP program, said employee must comply with all requirements of the EAP. Should the employee not comply with all such requirements, the employee may be subject to discipline up to and including termination. Any employee subject to the Cooperative's EAP Program and wishing to challenge the reasonableness of the EAP requirements may file a grievance pursuant to the collective bargaining agreement between the Cooperative and the Union.

K. COMPLIANCE WITH D.O.T. REGULATIONS

Employees who are drivers of Cooperative vehicles with a gross vehicle weight rating or gross combination weight rating of more than 26,000 pounds shall comply with the Federal and Illinois Departments of Transportation regulations concerning alcohol and controlled substance testing. The Cooperative will implement pre-employment, random, reasonable cause and post-accident testing and additional testing as required by this legislation. The Cooperative will follow reporting requirements in accordance with D.O.T. regulations. In addition, the Cooperative will implement procedures as required from time to time to comply with Department of Transportation regulations.

L. ADOPTION OF IMPLEMENTING RULES

The Cooperative may, from time to time, adopt such rules or regulations as it may deem necessary or appropriate for the purpose of implementing this policy and the provisions hereof and its administration and enforcement. Such rules or regulations shall be

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designated as applying to this Policy 212 and published and posted with and as an addendum to said Policy and shall have the same force and effect as the Policy.

M. REVOCATION/SUSPENSION OF DRIVER'S LICENSE

In regard to employees who lose their driver's license as a result of failure to pass any drug or alcohol testing, and who are required to drive as part of their job responsibilities:

1. The Cooperative will reasonably accommodate such individuals for a period of up to twelve consecutive months.
2. Should the individual be unable to regain the proper license within a one-year period following the revocation/suspension, he/she will be terminated.
3. During the period of revocation/suspension, should the employee fail any drug or alcohol test during regular working hours, he/she will be terminated.
4. Should a second situation occur, the employee will be terminated.

N. EMPLOYEE NOTIFICATION AND ACKNOWLEDGMENT

Compliance with this Substance Abuse Policy is a condition of employment and employees are expected to make a good faith effort to maintain a drug-free workplace. A copy of this Policy will be posted in a prominent place in the headquarters office at Carrier Mills, Illinois, and such other workplace offices of the Cooperative as may be appropriate.

Approved: December 20, 1991 - Board Meeting
Revised: December 29, 1991 - Board Meeting
Revised: February 25, 1997 - Board Meeting
Revised: January 26, 1999 - Board Meeting
Revised: August 22, 2006 – Board Meeting
Revised: November 26, 2013 – Board Meeting
Revised: December 20, 2019 – Board Meeting

PROCEDURE P212

SUBJECT: Drug/Alcohol Testing and Substance Abuse

I. PURPOSE

- A. To maintain a safe, helpful, and an efficient working environment for all SouthEastern Illinois Electric Cooperative, Inc. (the Cooperative) employees and to protect the Cooperative's property, equipment and operations;
- B. To reduce highway accidents that result from driver use of alcohol and/or controlled substances, thereby reducing fatalities, injuries, and property damage; and
- C. To comply with state and federal regulations requiring controlled substance and alcohol testing.
- D. To detail the Cooperative's procedures for implementing these state and federal regulations pursuant to the Cooperative's Policy #212.

II. RESPONSIBILITY

- A. President/CEO - the President/CEO is responsible for this Procedure.
- B. Administrative Assistant & HR Manager:

The President/CEO's Administrative Assistant & HR Manager has the overall administration responsibilities of this Procedure and will instruct all supervisors and employees that drive commercial motor vehicles (CMV's) in the following topics:

- understanding and implementing the Cooperative's substance abuse policy and related Procedures;
- information concerning the effects of alcohol and controlled substances use on an individual's health, work and personal life;
- signs and symptoms of an alcohol or a controlled substances problem (the employee/driver's or a co-worker's); and
- available methods of intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to the Cooperative's Employee Assistance Program (EAP) Coordinator.

Additionally, the President/CEO's Administrative Assistant & HR Manager will provide educational materials that explain the requirements of 40 CFR Sec. 382.601 to all employee/drivers

and provide each employee with the Cooperative's Policies and Procedures relating to substance and/or alcohol abuse. The President/CEO's Administrative Assistant & HR Manager is responsible for receiving and reviewing the test results with personnel who need to know and for maintaining the confidentiality of the test results. The President/CEO's Administrative Assistant & HR Manager is responsible for carrying out necessary subsequent random testing. The President/CEO's Administrative Assistant & HR Manager has been designated to answer employee/driver questions about this Procedure and any related materials.

The President/CEO's Administrative Assistant & HR Manager will inform applicants of the mandatory drug and alcohol tests prior to employment and arrange for the applicant to undergo a preemployment controlled substance screening test.

C. Cooperative Supervisors:

Supervisors are responsible for requesting that drug and alcohol tests be conducted by notifying the President/CEO's Administrative Assistant & HR Manager. Supervisors shall be responsible for enforcing this Procedure.

Supervisors must obtain confirmation to test for "reasonable suspicion" from a Confirming Supervisor. The Cooperative's Confirming Supervisors are: Jeff Crisp, Greg Cruse, Cindy Frailey, Travis Jones, Jeff Neuman, Andy Sweat, Stefanie Tripp and Dustin Tripp.

All Confirming Supervisors are responsible for reviewing a requesting Supervisor's TEST REQUEST including any available documentation, if applicable. If the Confirming Supervisor agrees with the basis for the test, he/she signs the TEST REQUEST and directs the requesting Supervisor to proceed with the test. If the Confirming Supervisor disagrees with the basis for the test, he/she returns the TEST REQUEST unsigned to the requesting Supervisor.

D. Cooperative Employees:

All Cooperative employees that drive CMV's (employee/drivers) have the responsibility to comply with this Procedure.

Employee/drivers who know or should know that they are using a drug that may alter their behavior or physical or mental ability must report that fact to his/her supervisor.

Employees observing any altering or tampering with a specimen sample or method of testing must report such incident to a Supervisor.

Effective January 6, 2020, all current employees will be required to provide written consent to the Cooperative to run a limited query through the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse. If a limited query results that there is information recorded in the Clearinghouse about the queried employee, an employee will be required to register through

the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse and provide electronic consent to the Cooperative to run a full query. Failure to provide consent will result in termination of employment.

Each employee/driver is required to sign a statement certifying that he or she has received a copy of the materials described in Sec. 382.601 as well as copies of the Cooperative's Policy and any related procedures that deal with alcohol and substance abuse.

E. Collection Site Facility:

The collection site facility shall be responsible for collecting urine and/or blood specimens of employee/drivers as requested by the President/CEO's Administrative Assistant & HR Manager pursuant to the DOT regulations according to the arrangements between the Cooperative and the collection site facility.

The collection site facility is responsible for transferring urine specimens to any NIDA approved chemical testing laboratory and for reporting the test results to the President/CEO's Administrative Assistant & HR Manager.

The collection site facility is responsible for conducting alcohol and controlled substances tests required by DOT regulations and for conducting all such tests in accordance with the procedures contained in the regulations.

F. Chemical Testing Laboratory:

The NIDA-approved Chemical Testing Laboratory as chosen by the collection site facility is responsible for analyzing the specimens and confirming the results. The laboratory will forward the report of test results to the collection site facility.

G. Breathalyzer Testing Facility:

The breathalyzer testing facility shall be responsible for conducting the breathalyzer tests as requested by the President/CEO's Administrative Assistant & HR Manager pursuant to the DOT regulations according to an agreement between the Cooperative and the breathalyzer testing facility.

III. INFORMATION/TRAINING

The Cooperative shall ensure that supervisors receive periodic training so that the supervisors may determine whether or not reasonable suspicion exists to require an employee/driver to undergo drug and/or alcohol testing. The training program will include at least 60 minutes of training on recognizing alcohol misuse, and at least 60 minutes of training recognizing controlled substance

abuse. The training shall cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Educational information will be made available periodically which will focus on the potentially dangerous effects of drug and alcohol use and abuse, the effects on job performance and the potential safety hazards presented to the individual, employee, other employees and the public.

IV. TESTING

A. Applicability

The provisions of this section shall apply to every employee who the Cooperative requires to have a commercial driver's license (CDL) and can be called upon to operate a CMV as part of his/her employment. Except as expressly provided, nothing in the regulations shall be construed to affect the authority of the Cooperative with respect to the use or possession of alcohol or drugs, including authority and rights with respect to testing and rehabilitation. Employees subject to the federal DOT regulations on drug and alcohol testing also remain subject to the other provisions of the Cooperative's Policies and Procedures. In the event that the DOT regulations conflict with a Cooperative Policy and/or Procedure, the federal regulations shall take precedence in those cases involving CMV drivers.

The safety-sensitive functions at this Cooperative include and mean all time from the time an employee/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 as defined in Section 392.107 of the Federal Motor Carrier Safety Regulations shall include:

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

However, the list above is not all inclusive of safety-sensitive functions performed at the Cooperative. The Cooperative's employee/drivers are required to be in compliance with this Procedure for all periods of the workday as outlined above.

B. Tests Required

Pursuant to Title 49, Code of Federal Regulations, Part 382, Cooperative employees who are required to have a CDL will be subject to and are required to submit to the following alcohol and controlled substances tests as a condition of employment:

1. Pre-Employment testing:

Prior to the first time an employee/driver performs safety-sensitive functions for the Cooperative, the employee/driver shall undergo testing for controlled substances, subject to certain exceptions as outlined in the federal regulations (49 CFR Sec. 382.301).

An employee who is conditionally offered a lateral transfer, promotion, or demotion from a position not covered by this Procedure into a position that requires performance of safety-sensitive functions as defined at Sec. 382.107 will be required to successfully complete a pre-employment test.

2. Post-accident testing:

As soon as practicable following an accident involving a Cooperative owned CMV, the Cooperative shall require a test of the employee/driver for alcohol and controlled substances if the accident involved a fatality or the employee/driver received a citation for a moving traffic violation arising from the accident. Post-accident alcohol tests shall be completed within 2 hours following the accident. Post-accident controlled substances tests shall be completed within 32 hours following the accident (Sec. 382.303).

Whenever an employee/driver of a Cooperative owned CMV is involved in an accident involving a fatality or the driver receives a citation for a moving traffic violation and is not tested for drugs and alcohol by a law enforcement officer, the employee/driver is required to immediately report such occurrence to his/her immediate supervisor who will arrange for alcohol and controlled substances tests. Failure to do so will result in termination. The Cooperative will make the necessary arrangements for the transportation of the employee/driver to the testing facility. Following post accident testing, the Cooperative will make arrangements to get the employee/driver home safely if the employee/driver has tested positive to an alcohol test. If the employee/driver has tested negative to an alcohol test but is waiting for the results of a controlled substances test, the employee/driver will be assigned to a non-DOT safety-sensitive function until the results of the controlled substances test are known. The Cooperative will pay for all costs associated with post accident testing.

3. Random testing:

Employee/drivers will be subject to random alcohol and controlled substances testing. The minimum annual percentage rate for drug and alcohol testing will be set annually by the Federal Highway Administration. The selection of employee/drivers for random alcohol and controlled substances testing shall be made by a scientifically valid method. Each employee/driver shall have an equal chance of being tested each time selections are made (Sec. 392.305). The Cooperative, if necessary, will make all transportation arrangements for the employee/driver including getting the employee/driver home safely. The Cooperative will pay all costs associated with Random Testing.

4. Reasonable suspicion testing:

The Cooperative will require an employee/driver subject to federal DOT regulations to submit to an alcohol or controlled substances test when there is reasonable suspicion to believe that the employee/driver has violated the federal regulations regarding alcohol and controlled substances while performing DOT safety-sensitive functions. The determination that reasonable suspicion exists to require the test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee/drivers. Such observations shall be made by two supervisors who have received the required training under the federal regulations (Sec. 382.307) and Paragraph III of this Procedure. The Cooperative shall make the necessary arrangements to transport the employee/driver to the testing facility. The Cooperative will make arrangements to get the employee home safely. The Cooperative will pay all costs associated with the reasonable suspicion testing. The employee will remain off duty without pay pending the results of the test. If the test result is negative, the employee will be paid from the time the test was administered. However, if the test result is positive, then refer to Paragraph V.B. of this procedure.

5. Return-to-duty testing:

If an employee/driver tests positive on an alcohol or controlled substances test, before returning to duty requiring performance of a DOT safety-sensitive function, the employee/driver shall undergo an alcohol test with a result indicating an alcohol concentration of less than 0.02 and a controlled substances test with a verified negative result (Sec. 382.309). The Cooperative will pay all costs associated with the drug or alcohol tests required by return to duty testing. The testing must be done at the Cooperative's collection site facility, and the lab normally used by the collection site facility will process the return-to-duty drug test.

6. Follow-up testing:

An employee/driver who tests positive to an alcohol or controlled substances test under the federal regulations will be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a substance abuse professional (SAP), consisting of at least six tests in the first 12

months following the employee/driver's return to duty (Section 382.311 and 382.605). See also Paragraph X of this Procedure. The Cooperative will pay all costs associated with follow-up testing and make necessary transportation arrangements for each of the follow-up tests. The employee taking a follow-up test will continue to be paid throughout the testing period. After each follow-up test, the employee will be returned to his/her classification until the test results are available.

C. Testing Procedures

The Cooperative will follow the procedures for drug and alcohol testing contained in the federal regulations, Title 49, Code of Federal Regulations, Part 40, a copy of which will be available from the President/CEO's Administrative Assistant & HR Manager. Breath alcohol testing will be conducted as required by the DOT regulations. Urinalysis is the method of testing for controlled substances. Urinalysis will test for the presence of drugs and/or metabolites of the following controlled substances: (1) marijuana; (2) cocaine; (3) opiates; (4) amphetamines; and (5) phencyclidine (PCP). Test results will be reviewed by a Medical Review Officer (MRO) contracted by the Cooperative.

The procedures that the Cooperative, the Collection Site Facility, the NIDA-approved Chemical Testing Laboratory and the MRO follows as outlined in the regulations are meant to protect the Cooperative's employee/driver and the integrity of the testing processes. Further, the procedures are meant to safeguard the validity of the test results and ensure that those results are attributable to the correct employee/driver, including post-accident information, procedures and instructions as required by the regulations.

Negative test results shall be reported by the MRO to the President/CEO's Administrative Assistant & HR Manager. Before reporting a positive test to the Cooperative, the MRO will attempt to contact the employee/driver to discuss the test result. If the MRO is unable to contact the employee/driver directly, the MRO will contact the President/CEO's Administrative Assistant & HR Manager, who shall, in turn, contact the employee/driver and direct the employee/driver to contact the MRO. Upon being so directed, the employee/driver shall contact the MRO immediately or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day. In the MRO's sole discretion, a determination will be made as to whether a result is positive or negative. If, after failing to contact the MRO after 5 days, or if the employee/driver cannot be contacted at all within 30 days, the MRO may verify the test as positive. After any positive verification the employee/driver may petition the MRO to reopen the case for consideration.

D. Violations

Violations of the DOT regulations are a violation of this Procedure and the Cooperative's Policies and are discussed in the following section. In addition to the provisions of that section, when an employee/driver who is required by the Cooperative to have a CDL is subjected to an alcohol test

that indicates a positive result of greater than 0.02, but less than 0.04, the employee will be removed from performing DOT safety-sensitive functions for the next 24-hour period. At the Cooperative's sole discretion, the employee/driver may be temporarily reassigned for the 24-hour period mentioned above to other duty not involving DOT safety-sensitive functions and be subject to further disciplinary action.

V. VIOLATIONS OF THIS PROCEDURE

A. Employees Refusing to Consent to Drug and/or Alcohol Tests.

Refusal to submit to an alcohol or controlled substances test includes but is not limited to outright refusal to submit to such tests, uncooperative behavior, or any other behavior which would lead a reasonable person to believe that the employee/driver is refusing to submit to the test(s).

Refusal to submit to an alcohol or controlled substances test means that an employee:

- a. Fails to appear for any test (except a pre-employment test) within a reasonable time,
- b. Fails to remain at the testing site until the test process is complete,
- c. Fails to provide a urine specimen,
- d. In the case of a directly observed or monitored collection, employee fails to permit observation or monitoring,
- e. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy,
- f. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy,
- g. Fails or decline to take additional drug or alcohol the employer or collector has directed employee to take,
- h. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process,
- i. Fails to cooperative with any part of the testing process,
- j. Admits to the collector of a urine sample that he or she has adulterated or substituted their specimen,
- k. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process, or
- l. Behaves in a confrontation way that disrupts the collections process or otherwise engages in conduct that clearly obstructs the testing process.

An employee/driver refusing to consent to "reasonable suspicion" drug or alcohol tests or any test required by DOT regulations is in violation of this Procedure and will be terminated.

B. Employee/Drivers Who Test “Positive”

An employee/driver testing positive in a reasonable cause test or reasonable suspicion test is in violation of this Procedure. The results of the test will be considered along with other factors to determine drug and/or alcohol impairment or influence. The employee may be terminated without notice for reporting to work or working under the influence of alcohol, illegal drugs, or controlled substances; drunkenness while on duty; for possession of alcohol, illegal drugs, or controlled substances while on duty; and use or sales of alcohol, illegal drugs, or controlled substances while on duty. An illegal drug is defined as a substance whose use or possession is controlled by federal law, state law, or both federal and state law.

An employee/driver testing positive in any other test required by DOT regulations is in violation of this Procedure and is suspended without pay from the date the test results are disclosed or known until he/she produces a “negative” test, at the Cooperative collection site facility and any NIDA-approved chemical testing laboratory. An employee/driver has 45 days after testing positive to produce a negative test. If a negative test result is not produced within 45 days, the employee/driver will be subject to discipline up to and including termination. The employee/driver and non-DOT covered employee will be required to participate and follow through with the Cooperative EAP. The employee/driver is required to be evaluated by a substance abuse professional (SAP). The employee/driver is required to participate in and follow through with the SAP’s recommendations. As an employee, when you have violated DOT drug and alcohol regulations, you cannot again perform any DOT safety-sensitive duties for any employer until and unless you complete the SAP evaluation, referral and education/treatment process set forth in Part 40 Subpart O and in applicable DOT agency regulations. If the employee/driver does not participate or cooperate with the SAP, the employee/driver will be terminated. See Paragraph X of this Procedure.

Each employee/driver identified by the SAP as needing assistance in resolving problems associated with alcohol misuse or controlled substances use shall be evaluated by an SAP to determine that the employee/driver has properly followed any rehabilitation program prescribed by the SAP evaluation described above. Further, if the employee/driver is identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use, the employee/driver shall be subject to unannounced follow-up alcohol and controlled substances tests administered by the Cooperative following the employee/driver’s return to duty. The number and frequency of such follow-up testing shall be as directed by the SAP, and consist of at least 6 tests in the first 12 months following the employee/drivers return to duty. The Cooperative may direct the employee/driver to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular employee/driver. Any such testing shall be performed in accordance with the requirements of 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the employee/driver’s return to duty. The SAP may terminate the requirements for follow-up testing at any time after the first 6 tests have been administered, if the SAP determines that such testing is no longer necessary. Reasonable suspicion testing can still be initiated during the 12-month subsequent random testing period.

An employee/driver testing positive on the “subsequent random” drug or alcohol tests will be terminated.

C. Interference or Tampering with Testing Procedures.

Any Cooperative employee who alters or tampers with a specimen sample or testing method will be terminated.

VI. PROCEDURE REVIEW

This Procedure will be reviewed annually by the Cooperative’s President/CEO.

VII. PRE-EMPLOYMENT REFERENCES

The Cooperative must obtain and review the following information from each employer that the prospective employee worked for, in a safety-sensitive position, during the previous three years:

- a. Information about a test in which the employee’s blood alcohol was 0.04 or greater,
- b. Information about a positive drug test and
- c. Information about any refusal to participate in the alcohol and drug testing program.

Effective, January 6, 2020, all new employees will be required to register on the Federal Motor Carrier Safety Administration’s Drug and Alcohol Clearinghouse and to provide electronic consent to the Cooperative to run a full query as a condition of employment. The employee will also provide the Cooperative with written consent to run a limited query in subsequent years. The prospective employee must provide the former employer with a written release allowing the release of this information or he/she will not be hired. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be hired unless:

- a. He/she has already consulted with a substance abuse professional,
- b. Already received recommended treatment and
- c. Subsequently tested negative in a return to duty test for the former employer.

VII. CONFIDENTIALITY

A. The Cooperative will not disclose drug/alcohol test information without first obtaining the written consent of the employee/driver. All drug/alcohol test information and forms will be filed in the confidential EAP/Drug Testing files. Every effort will be taken to keep the test results confidential.

B. The collection site facility will mail the report of test results (PERSONAL AND CONFIDENTIAL) to the President/CEO’s Administrative Assistant & HR Manager.

C. The President/CEO's Administrative Assistant & HR Manager will notify the President/CEO and the employee/driver's Operations Superintendent of the test results (positive or negative) and file the report of test results in the EAP/Drug Testing files located in the office of the President/CEO's Administrative Assistant & HR Manager.

D. Effective January 6, 2020, the requirement that the following personal information collected and maintained under 49 CFR Section 382.601 shall be reported to the Clearinghouse by the close of the third business day following the date on which the following was obtained:

1. A verified positive, adulterated, or substituted drug test result;
2. An alcohol confirmation test with a concentration of 0.04 or higher;
3. A refusal to submit to any test required by subpart C of this part;
4. An employer's report of actual knowledge, as defined at Section 382.107:
 - a. On duty Alcohol use pursuant to Section 382.205;
 - b. Pre-duty alcohol use pursuant to Section 382.207;
 - c. Alcohol use following an accident pursuant to Section 382.209; and
 - d. Controlled substance use pursuant to Section 382.213;
5. A substance abuse professional (SAP as defined in Section 40.3 of this title) report of the successful completion of the return-to-duty process;
6. A negative return-to-duty test; and
7. An employer's report of completion of follow-up testing.

VIII. EMPLOYEE GRIEVANCE

If an employee/driver protests any phase of this drug and alcohol testing process, he/she may use the grievance procedures as outlined in the Collective Bargaining Agreement to address his/her complaint.

IX. RECORDKEEPING AND REPORTING

A. The collection site facility will maintain the employee/driver's test results for a period of at least five (5) years from the date of the test.

B. The President/CEO's Administrative Assistant & HR Manager will maintain employee/driver's reports of test results and drug/alcohol forms permanently in the confidential EAP/Drug Testing files. Reports of test results for pre-employment applicants (who are not hired) will be maintained with the employee/driver's application for a period of two years.

X. REHABILITATION

Any employee/driver who engages in prohibited conduct under the DOT drug and alcohol testing regulations, with the exception of refusal to submit to a test, shall be provided with the names, addresses, and telephone numbers of qualified substance abuse professionals (SAP's), counseling and treatment programs. If the employee/driver desires to become requalified, the employee/driver must be evaluated by a SAP and submit to any treatment the SAP prescribes. Following evaluation and treatment, if any, in order to become requalified, the employee/driver must submit and successfully complete a return-to-duty drug and/or alcohol test. Such driver is also subject to follow-up testing. The schedule for follow-up testing shall be unannounced and in accordance with the instructions of the SAP. The costs of any SAP evaluation or prescribed treatment as a result of a positive test or a refusal to submit to a test shall be borne by the employee/driver.

Nothing in this section shall limit an employee/driver's ability to voluntarily participate in the Cooperative's EAP program as set out in Policy 212. However, an employee/driver who tests positive to alcohol and/or substance abuse is still subject to this Procedure. The DOT regulations and this Procedure control where a conflict exists with Policy 212.

XI. SPLIT TESTING OF "ORIGINAL" SPECIMEN

Employee/drivers and pre-employment applicants may request a split test of any "original" specimen for pre-employment, subsequent random testing, reasonable suspicion, and reasonable cause testing.

Requests for split tests must be made to the President/CEO's Administrative Assistant & HR Manager within seventy-two (72) hours from the date the employee/driver is notified of the test results.

All split-tests are at the employee's/applicant's expense and must be conducted through the Cooperative's collection site facility and any NIDA-approved chemical testing laboratory. If the split test results are negative, the Test will be cancelled and the MRO may direct the President/CEO's Administrative Assistant & HR Manager to require that the employee undergo an immediate recollection under direct observation or take other action as provided by the DOT regulations (See 49 CFR Section 40.187 and 40.201).

If the split-test results are "positive" for employee/drivers, then refer to Paragraph V-B of this Procedure. If the re-test results are "positive" for pre-employment applicants the conditional employment offer is withdrawn.

REFERENCES:

1. Policy 212 - Substance Abuse, Drug Free Workplace.
2. Drug and Alcohol Test Request.
3. Title 49, Code of Federal Regulations (CFR), Parts 40, 382, 391, 392 and 395.
4. Statement certifying receipt of materials per 49 CFR Sec. 382.601.

Approved: January 26, 1999 - Board Meeting

Revised: April 24, 2001 - Board Meeting

Revised: August 22, 2006 – Board Meeting

Revised: November 26, 2013 – Board Meeting

Revised: December 20, 2019 – Board Meeting

ALCOHOL & DRUGS: DOT COMPLIANCE MANUAL

Part 382 - Controlled Substances and Alcohol Use Testing applies to drivers of this company.

Company Name: _____

Driver/Applicant

Name: _____
(Print) (First, M.I., Last)

You are hereby notified the following test will be administered in compliance with the
Federal Motor Carrier Safety Regulations.

1. The test is scheduled:

Date: _____

Location: _____

Time: _____

2. Check type of test: Alcohol Controlled Substance

3. Check reason for test: Pre-employment Random Reasonable Suspicion/cause
 Post-accident Return to duty Follow-up

4. Appointment instructions/comments:

I understand as a condition of my employment with this company, the above identified test is required.

Driver/Applicant's Signature Date
Witnessed by:

Company Representative

Date

RETAIN IN EMPLOYEE'S CONFIDENTIAL FILE

ALCOHOL & DRUGS: DOT COMPLIANCE MANUAL

OBSERVED BEHAVIOR

REASONABLE SUSPICION RECORD

Personnel Office Use Only

Employee Number _____

Location _____

Incident Number__ Driver's Name _____

Date Observed

Address of Incident: _____
Street City State Zip Code

Record employee observed behavior for reasonable suspicion for the use of alcohol or controlled substances. According to 49 CFR §382.307 *Reasonable Suspicion Testing*, the employer shall require the driver to submit to a controlled substance or alcohol test if a supervisor or company official who is trained in accordance with §382.603 determines that reasonable suspicion exists.

Reasonable suspicion determined for: ☐ Alcohol ☐ Controlled Substances

Mark items that apply and describe specifics

1. APPEARANCE: normal_____ sleepy_____ tremors_____ clothing_____ cleanliness_____

Description: _____

2. BEHAVIOR: normal_____ erratic_____ irritable_____ inappropriate gaiety_____ mood swings_____ lethargic_____

Description: _____

3. SPEECH: _____

Description: _____

4. BODY ODORS: _____

5. INDICATIONS OF THE CHRONIC AND WITHDRAWAL EFFECTS OF CONTROLLED SUBSTANCES:

☐ YES ☐ NO

EXPLAIN: _____

6. OTHER OBSERVATIONS FOR REASONABLE SUSPICION:

WITNESSED BY:

_____ Signature	_____ Title	_____ Preparation Date	_____ Time	a.m. p.m.
_____ Signature	_____ Title	_____ Preparation Date	_____ Time	a.m. p.m.

THE ALCOHOL TEST MUST BE ADMINISTERED WITHIN EIGHT HOURS FOLLOWING A
REASONABLE SUSPICION DETERMINATION

**EMPLOYER RETAIN IN EMPLOYEE'S CONFIDENTIAL FILE
ALCOHOL & DRUGS: DOT COMPLIANCE MANUAL**

Alcohol And Controlled Substance Employee's Certified Receipt

Employee's Name

Company/Department

This is to certify that I have been provided educational materials that explain the requirements of § 382.601 and my employer's policies and procedures with respect to meeting the requirements. The materials include detailed discussion of the following checked (✓) items:

- _____ 1. The designated person to answer questions about the materials.
- _____ 2. The categories of drivers subject to Part 382.
- _____ 3. Sufficient information about the safety-sensitive functions and periods of the workday that compliance is required.
- _____ 4. Specific information concerning prohibited driver conduct.
- _____ 5. Circumstances under which a driver will be tested.
- _____ 6. Test procedures, driver protection and integrity of the testing processes, and safeguarding the validity of the test.
- _____ 7. The requirement that tests are administered in accordance with Part 382.
- _____ 8. An explanation of what will be considered a refusal to submit to a test and the consequences.

_____ 9. The consequences for Part 382 Subpart B violations including removal from safety-sensitive functions and §382.605 procedures.

_____ 10. The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.

_____ 11. Information on the affects of alcohol and controlled substances use on:

- an individual's health - signs and symptoms of a problem

- work - available methods of intervening when a problem is suspected

- personal life

_____ 12. Optional information:

Employee's Signature

Date _____

Authorized Employer Representative

Date

RETAIN IN EMPLOYEE'S CONFIDENTIAL FILE