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**WATERFORD**  
**A CHARTER TOWNSHIP**

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**WATERFORD TOWNSHIP'S POLICY AND PROCEDURE**  
**MANUAL UNDER THE OMNIBUS TRANSPORTATION WORKERS**  
**TESTING ACT OF 1991**

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This procedure shall apply to all employees required to hold a commercial driver's license.

Waterford Township has a long-standing commitment to maintain high standards of employee safety and health and to provide a drug and alcohol free working environment. These materials are provided in compliance with the Omnibus Transportation Employee Testing Act of 1991 and the underlying regulations adopted and enforced by the U.S. Department of Transportation.

Every employee required to hold a commercial driver's license is subject to drug and alcohol testing. Testing will be conducted under the following situations: (1) pre-employment; (2) post-accident; (3) reasonable suspicion; (4) random; (5) return-to-duty and (6) follow-up testing.

Notwithstanding any reference to return-to-duty and follow-up testing contained herein, it is the Township's policy that any employee who tests positive for a controlled substance under this policy, or who tests at an alcohol concentration level of .02 or above shall be subject to disciplinary action in accordance with the Township's Uniform Rules and Regulations. Any employee who refuses to take a test, or who fails to fully cooperate in the testing process, will be subject to disciplinary action, up to and including, discharge.

If you have any questions regarding the required Drug and Alcohol testing, please feel free to contact the Township's Director of Fiscal and Human Resources, who shall be responsible for the administration of this policy.

The policy shall apply to the following categories of drivers: all Township employees who's job duties require a commercial driver's license.

Policies & Procedures  
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## I. PROHIBITIONS

### A. ALCOHOL USE/POSSESSION

Under the law and the policy of the Township, individuals who operate commercial motor vehicles may not:

1. Report for duty or remain on duty requiring the performance of “safety-sensitive”<sup>1</sup> functions while having a breath alcohol concentration of .02 or greater;
2. Be on duty or operate a commercial motor vehicle<sup>2</sup> while possessing alcohol;

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<sup>1</sup>“Safety-sensitive” functions include, but are not limited, to:

“All time from the time the driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work, including:

- (1) All time waiting to be dispatched.
- (2) All time inspecting equipment 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 (as defined by the Department of Transportation) in operation;
- (4) All time, other than driving time, in or upon any commercial motor vehicle;
- (5) 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;
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

<sup>2</sup> *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 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000

3. Use alcohol while performing safety-sensitive functions;
4. Perform safety-sensitive functions within four (4) hours after using alcohol;
5. Use alcohol for eight (8) hours after an accident for which the driver must be tested, or until he/she undergoes such testing, whichever occurs first;
6. Refuse to submit to an alcohol test allowed or required by law;
7. Perform safety-sensitive functions for a minimum of 24 hours while having a breath alcohol concentration of .02 or greater but less than .04.

B. CONTROLLED SUBSTANCE USE

Under the law and the policy of the Township, individuals who operate commercial motor vehicles may not:

1. Report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver has used or uses any controlled substance<sup>3</sup>, except when in use pursuant to the written instructions of a physician advising the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
2. Refuse to submit to a controlled substance test allowed or required by law.
3. Report for duty, remain on duty or perform a safety-sensitive function if he/she tests positive for a controlled substance.

All drivers must inform their supervisor of any therapeutic or other prescribed drug use prior to the performance of any safety-sensitive function.

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- (2) pounds); or
  - (3) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
  - (4) 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.

<sup>3</sup> "Controlled Substances" are defined as such by the Department of Transportation Regulations. They currently include marijuana, cocaine, opiates, amphetamines and phencyclidine.

## II. TYPES OF TESTING

### A. PRE-EMPLOYMENT TESTING

Prior to the time a newly hired or classified driver performs safety-sensitive functions for an employer, he/she must undergo testing for controlled substances.

### B. POST-ACCIDENT TESTING

In any accident involving the loss of human life in which a driver was performing safety-sensitive functions, or in which the driver receives a citation under state or local law and; (1) any person suffered bodily injury in the accident and immediately receives medical treatment away from the scene, or (2) one of the vehicles involved in the accident incurs disabling damage requiring the motor vehicle to be towed away from the scene, the driver must undergo testing for alcohol and controlled substances. The driver must make him/her self readily available for such testing after an accident. Failure to do so will be considered a refusal to submit to testing.

### C. RANDOM TESTING

Drivers will be subject to random testing. At least twenty-five (25%) percent of the average number of driver positions shall be tested for alcohol on an annual basis and at least fifty (50%) percent of the average number of driver positions shall be tested for controlled substances annually. Drivers shall be selected for this testing through a scientifically valid method, with each driver having an equal chance of being tested each time selections are made. Random testing shall be unannounced and the dates for the testing shall be spread reasonably throughout the calendar year. All drivers selected for random testing must proceed to the test site immediately.

### D. REASONABLE SUSPICION TESTING

If the Township has reasonable suspicion to believe that a driver has violated the prohibitions referenced above, that driver must submit to controlled substance and/or alcohol testing. Reasonable suspicion will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech and body odors of the driver. These observations may include indications of the chronic and withdrawal effects of controlled substances. The required observations for

drug/controlled substance testing shall be made by a supervisor of the Township who has been trained to perform that function.

E. RETURN-TO-DUTY TESTING

Any driver allowed to return to duty requiring the performance of safety-sensitive function after engaging in prohibited conduct, shall undergo a return-to-duty alcohol test (in the case of an alcohol violation) or a return-to-duty controlled substance test (in the case of a controlled substance violation). Any such alcohol testing must indicate an alcohol concentration of less than .02, and any such controlled substance test must indicate a verified negative result for controlled substances use in order for such a driver to return to duty.

F. FOLLOW-UP TESTING

Each driver who has engaged in prohibited conduct, shall be evaluated, at the employee's expense, by a substance abuse professional. If the substance abuse professional determines that the driver is in need of assistance in resolving problems associated with alcohol misuse and/or the use of controlled substances the driver, if allowed to return to duty, will be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional, but consisting of at least six (6) testings in the twelve (12) months following the driver's return to duty. Such testing may continue for a period of up to 60 months.

**III. TESTING PROCEDURES**

The testing procedures utilized by the Township and the selected laboratory(ies) will be as required by the provisions of 49 CFR, Part 40, as amended from time to time. These procedures are designed and intended to protect the drivers and the integrity of the testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver. Subject to amendment of the governing law and/or regulations, the procedures to be followed for alcohol testing are identified in Appendix A, and the procedures to be followed for controlled substance testing are identified in Appendix B. These procedures are subject to amendment, including the use of non-evidential breath testing devices for alcohol screening tests, as permitted by the U.S. Department of Transportation.

**IV. FAILING OR REFUSING TO TAKE A TEST**

Any driver who has engaged in prohibited conduct, or tests positive for a controlled substance and/or alcohol, may not perform safety-sensitive functions, including driving a commercial motor vehicle and will be disciplined in accordance with the Township's Uniform Rules and Regulations. Similarly, any driver who refuses to submit to a test under this policy may not continue to perform safety-sensitive functions and, under the Township's independent authority, will be subject to disciplinary action, up to and including, discharge.

## APPENDIX A

### ALCOHOL TESTING PROCEDURES

#### **I. ALCOHOL TESTING REQUIREMENTS**

##### **A. GENERAL**

1. The alcohol testing site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the testing and processing of alcohol test results. An independent medical facility may also be utilized as an alcohol testing site as followed by law.
2. An alcohol testing site shall be any suitable location where a breath alcohol test can be collected under conditions set forth below, including a properly equipped mobile facility. A designated alcohol testing site shall provide for privacy during the testing period and completion of all necessary record procedures.

##### **B. SCREENING DEVICES**

1. The Township shall utilize a log book to record information relative to screening alcohol tests, if the evidential breath testing device (“EBT”) being utilized does not have:
  - a. Capabilities to be attached independently or by direct link to a separate printer, and print a result in triplicate (or three consecutive identical copies) of each breath test;
  - b. Capabilities to assign a unique and sequential number of each completed test so that the number can be read by the breath alcohol technician (BAT) and the employee before each test and be printed out on each copy of the result;
  - c. Capabilities of printing out the manufacturer’s name of the device, serial number and time of the test.
2. A log book shall be used for each device that does not meet the above criteria and the log book shall include the following information: test number, date

of test, name of BAT, location of test, test result and initials of the employee taking each test.

3. The Township may use non-evidential screening tests, approved by the National Highway Traffic Safety Administration in lieu of EBT's for its screening tests. A properly trained screening test technician (STT) will conduct such a test.
- C. Confirmation Devices. The Township shall utilize an EBT for confirmation testing that has the capabilities listed above in Paragraph B.1. The EBT shall also be able to distinguish alcohol from acetone at the .02 alcohol concentration level, be capable of testing an air blank prior to each collection of breath, and performing an external calibration.
- D. NHTSA Conforming Products List. All devices that will be used by the Township of Waterford for alcohol testing are National Highway Transportation Safety Administration (NHTSA) approved evidential breath alcohol testing (EBT) devices. NHTSA has model specifications for evidential breath testing devices. NHTSA periodically publishes an updated Conforming Products List, which states which devices have met NHTSA standards.

## **II. BREATH ALCOHOL TECHNICIAN (BAT) GUIDANCE**

### **A. GENERAL**

1. The breath alcohol technician (BAT) shall receive sufficient training and be certified to proficiency in the specific operation of the evidential breath testing (EBT) device he/she uses in the required alcohol testing procedures. These procedures include the following:
  - a. Each BAT used by the Township shall be able to demonstrate by successful completion of a course of instruction which, at a minimum, provides training in the principles of EBT methodology, operation and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.
  - b. The Township shall ensure that only courses of instruction that are equivalent to the National Highway Traffic Safety Administration (NHTSA), as amended, model course may be used to train BATs to



proficiency. Upon request, NHTSA will review a BAT instruction course to determine equivalency.

- c. The Township shall ensure the course of instruction shall provide documentation that the BAT has demonstrated competence in the operation of the specific EBT(s) to be used by the Township.
  - d. The Township shall ensure that any BAT who will perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of the EBT to be used by the Township. The BAT training shall also include practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard, and in the maintenance and calibration of the particular EBT.
  - e. The Township shall ensure the BAT(s) receive sufficient additional training to ensure proficiency concerning any new or additional devices or changes in technology for equipment used by the Township.
  - f. The Township or its designated agent, who is involved in conducting alcohol testing, shall establish documentation regarding the training and proficiency testing of any BAT it uses to test employees.
2. The Township may authorize a BAT qualified supervisor of an employee to conduct an alcohol test for that employee if another BAT is unavailable to perform the required test in a timely manner. However, the supervisor who makes a determination that reasonable suspicion exists shall not be authorized to conduct that alcohol test on that employee.

### **III. EVIDENTIAL BREATH TESTING (EBT) PROCEDURES**

#### **A. SCOPE**

The evidential breath testing procedures set forth in this Appendix address the requirements as set forth in 49 CFR, Part 40, and specifies the required form and disposition of such testing forms.

B. ALCOHOL TESTING FORM AND LOG BOOK

1. The BAT shall utilize the Breath Alcohol Testing form provided by the Township. The alcohol testing form must comply with the provisions as contained in 49 CFR, Part 40, with regard to the information that must be contained on the form. The form must address the specific requirements contained in 49 CFR §40.59. The Township may not modify or revise the form.
2. The Township may utilize a form that is directly generated by an EBT and may omit the space for affixing a separate printed result to the testing form. The form shall provide triplicate or three consecutive identical copies with copy 1 (white copy) being retained by the Township, copy 2 (green copy) being provide to the employee, and copy 3 (blue copy) being retained by the BAT.
3. The breath alcohol testing form may include such additional information as may be required for billing or other legitimate purposes necessary to the testing, providing that personal identifying information on the individual (other than the social security number or employee identification number) may not be provided.

C. BREATH TESTING LOCATIONS

1. The Township shall conduct the testing in a location that affords visual and aural privacy to the employee being tested. The location shall prevent unauthorized personnel from seeing or hearing test results. All necessary equipment, personnel, and materials for conducting the alcohol testing shall be provided at the testing site.
2. A mobile collection facility, such as a van that is equipped for alcohol testing, that meets the requirements set forth in this policy may be utilized.
3. No unauthorized persons shall be permitted access to the testing site when the EBT remains unsecured, or in order to prevent such individuals from seeing or hearing a test result, at any time testing is being conducted.
4. In some circumstances, the Township may have to conduct such alcohol testing outdoors at the scene of an accident that does not meet the requirements as specified in post-accident provisions of this policy, then the

BAT shall provide the necessary visual and aural privacy to the employee to the greatest extent practicable.

5. The BAT shall supervise only one employee's use of the EBT at a time. The BAT shall not leave the alcohol testing site while the testing procedure is in process.

D. BREATH ALCOHOL TESTING PREPARATIONS

1. When an employee arrives at the alcohol testing site, the BAT shall ensure that the individual is positively identified as the employee selected for alcohol testing (e.g., through presentation of photo identification or identification by the Township's representative). If the employee's identity cannot be established, the BAT shall not proceed with the alcohol test. If the employee requests, the BAT shall show proper identification to the employee.
2. The BAT shall explain the alcohol testing process to the employee.
3. If the employee fails to arrive at the assigned time, the BAT should contact the appropriate authority to obtain guidance on any action to be taken.

E. SCREENING TEST PROCEDURES

1. The BAT shall begin the alcohol testing process by completing Step 1 on the Alcohol Breath Testing Form. The employee shall then complete Step 2 by signing the certification. Refusal by the employee to sign the certification shall be regarded as a refusal to take the alcohol test.
2. The BAT shall select an individually-sealed mouthpiece which shall be opened in full view of the employee and attached it to the EBT in accordance with the manufacturer's instructions.
3. The BAT shall instruct the employee to blow forcefully into the mouthpiece for at least six (6) seconds or until the EBT instrument indicates that an adequate amount of breath has been obtained.
4. If the EBT does not meet the requirements listed under Section 1B 1. of Appendix A, the BAT shall ensure, before a screening test is administered to each employee, that he or she and the employee read the sequential test number displayed on the EBT. The BAT shall record the displayed result,

test number, testing device, serial number of the testing device, and time in the appropriate place on the form.

5. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
6. If the BAT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
7. Alcohol concentration less than .02
  - a) If the result of the screening alcohol test is a breath alcohol concentration of less than 0.02, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then sign the certification and fill in the date in Step 4 of the form. If the employee does not sign the certification in Step 4, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign or initial in the "Remarks" section of the form.
  - b) If a test result printed by EBT does not match the displayed result, the BAT shall note the disparity in the "Remarks" section. Both the BAT and the employee shall initial or sign the notation. The alcohol test is invalid and the Township's representative and the employee shall be so advised.
  - c) At this point, no further testing is authorized. The BAT shall transmit the result of less than 0.02 to the Township or other appropriate representative in a confidential manner. The Township shall receive and store the information so as to ensure that confidentiality is maintained.
8. If the result of the screening test is an alcohol concentration of 0.02 or greater, then the BAT shall perform a confirmation test. If the confirmation test will be conducted by a different BAT, then the BAT who conducts the screening test shall complete and sign the form and log entry. The BAT will, upon completion of the alcohol test, provide the employee with Copy 2 of the breath alcohol testing form.

9. If the employee or applicant is screened using a non-evidential screening device, the device and the testing procedure will comply with the provisions of 49 CFR §40.93 - 40.101 and 40.105-107. Refusal to complete and sign the alcohol testing form required for such a test, to provide a breath or saliva sample (if requested), to provide an adequate amount of breath, or otherwise to cooperate in a way that prevents the completion of the testing process, shall be noted by the testing technician in the remarks section of the form, and shall constitute a refusal to test. Under these circumstances, the testing process shall be terminated, and the testing technician will immediately notify the Township of the refusal.

F. CONFIRMATION TEST PROCEDURES

1. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT will require the employee to provide positive identification such as photo ID card or identification by a Township representative. The BAT will upon request of the employee being tested provide such identification.
2. The BAT shall instruct the employee not to eat, drink, put any object or substance in his/her mouth and, to the extent possible, not belch during the waiting period just prior to the confirmation test being conducted. This waiting period shall begin with the completion of the screening test and shall not be less than 15 minutes, but must be within 30 minutes of the completion of the screening test. The BAT shall explain to the employee that the reason for this is to prevent any accumulation of mouth alcohol leading to an artificially high reading and that it is for the benefit of the employee to comply with these instructions. The BAT shall also explain that the test will be conducted at the end of the required waiting period, even if the employee has disregarded the instructions. Should the BAT become aware that the employee has not complied with the instructions as provided, the BAT shall note the observations in the “Remarks” section of the form.
3. When a BAT other than the one who conducted the screening test is required to conduct the confirmation test, the new BAT shall initiate a new Breath Alcohol Testing form. The BAT shall then complete Step 1 on the form and the employee shall then complete Step 2 by signing the certification. If the employee should choose not to sign the certification, the BAT shall then make an appropriate notation in the “Remarks” section indicating the

employee's refusal to take the alcohol test. The BAT shall note in the "Remarks" section that a different BAT conducted the screening test.

4. The BAT shall open, in the presence of the employee, a new individually-sealed mouthpiece and attach the mouthpiece to the EBT in accordance with the manufacturer's instructions. The BAT will then instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
5. The BAT shall ensure, prior to the confirmation test being administered to the employee, that the EBT shall register 0.00 on an air blank. If the reading is greater, the BAT shall conduct one more air blank. Should the EBT again register greater than 0.00, the testing shall not proceed using that EBT. An EBT taken out of service because of failure to perform an air blank accurately shall not be used for testing until a check of external calibration is conducted and the EBT is found to be within the accepted tolerance limits. Alcohol testing using another EBT may proceed.
6. In the event that the screening and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result on which any disciplinary action by the Township may be taken.
7. If the EBT provides a printed result but does not print the results directly onto the form, the BAT shall show the employee the result displayed on the EBT. The BAT shall then affix the test result printout to the breath alcohol test form in the designated space. The result shall be secured in such a manner that will provide clear evidence of removal, such as the use of tamper-evident tape.
8. If the EBT prints the test result directly onto the alcohol form, then the BAT shall show the employee the result displayed on the EBT.
9. After the confirmation test is completed, the BAT shall date the form and sign the certification in Step 3 of the form. The employee shall then be instructed to sign the certification and fill in the date in Step 4. If the employee should elect to not sign the certification or to provide his/her initials in the log book entry for the test conducted, it shall not be considered a refusal to be tested. The BAT shall then note the employee's failure to sign or initial the log book entry in the "Remarks" section of the testing form.

10. If a test result printed by the EBT does not match the displayed result, the BAT shall note the disparity in the “Remarks” section. Both the BAT and employee shall initial or sign the notation on the testing form. The test shall be considered “invalid” and the Township representative and the employee shall be so advised.
11. Upon completion of the test, the BAT shall conduct an air blank. If the result is greater than 0.00, the test is invalid.
12. The BAT shall transmit all alcohol testing results to the designated Township representative in a confidential manner. All communications by BAT’s shall be to the designee only and may be provided in writing, in person, or by telephone or electronic means. The BAT shall ensure that immediate transmission of test results to the Township is conducted in order for the Township to prevent the employee from performing any safety-sensitive functions.
13. Should the initial transmission not be accomplished in writing, but via telephone notification, the Township’s designee shall establish a mechanism to verify the identity of the BAT providing the information. The BAT shall follow the initial transmission by providing to the designee the Township’s copy of the breath alcohol testing form. The test results shall be stored in such a manner so as to protect the confidentiality of the results and to eliminate the disclosure of information to unauthorized persons.

G. REFUSALS TO TEST AND UNCOMPLETED TESTS

1. Refusal by an employee to complete and sign Step 2 of the breath alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT in the “Remarks” section of the form. The testing process shall be terminated and the BAT shall immediately notify the Township’s designee.
2. If a screening or confirmation test cannot be completed, or if an event occurs to invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test using a new breath alcohol testing form with a new sequential test number.

H. INADEQUATE AMOUNT OF BREATH

1. If the employee is unable, or alleges that he/she is unable, to provide a sufficient amount of breath to permit a valid breath test because of a medical condition, the BAT shall again instruct the employee to attempt to provide an adequate amount. If the employee refuses to make the attempt, the BAT shall immediately inform the Township's designee.
2. If the employee attempts and fails to provide an adequate amount of breath, the BAT shall note in the "Remarks" section of the testing form and shall immediately inform the designee. The designee shall direct the employee to obtain, as soon as practicable after the attempt, an evaluation from a licensed physician who is acceptable to the Township concerning the employee's medical ability to provide an adequate amount of breath.
3. If the physician determines, in his/her reasonable medical judgment, that a medical condition has or could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall not be deemed as a refusal to take an alcohol test. The physician shall provide to the Township's designee a written statement on the basis of his/her conclusion.
4. If the physician, in his/her reasonable medical judgment, is unable to make the determination that a medical condition has precluded the employee from providing an adequate amount of breath, the employee's failure to provide an adequate amount of breath shall be regarded as a refusal to take a test. The physician shall provide a written statement of the basis for his/her conclusion to the Township's designee.

#### I. INVALID TESTS

A breath alcohol test shall be invalid under the following circumstances:

1. The EBT does not pass its next external calibration check. This invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test. This would not invalidate any negative tests conducted.
2. The BAT does not observe the minimum 15-minute waiting period prior to conducting the confirmation test.



3. The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to or after the administration of alcohol test.
4. The BAT does not sign the breath alcohol testing form.
5. The BAT fails to note in the “Remarks” section of the form that the employee has failed or refused to sign the form following the recording or printing on or attachment to the form of the test results.
6. An EBT fails to print a confirmation test result.
7. The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

## **APPENDIX B**

### **DRUG TESTING PROCEDURES**

#### **I. SPECIMEN COLLECTION PROCEDURES**

##### **A. SCOPE**

1. The drug testing custody and control form is to be used as a permanent record on which identifying data on the employee and on the specimen collection and transfer process are retained. The drug testing plan requires testing for marijuana, cocaine, opiates, amphetamines, and phencyclidine.
2. Urine specimens collected under this plan may be used only to test for controlled substances designated or approved for testing as described in this appendix and shall not be used to conduct any other analysis or test.
3. This plan does not prohibit procedures reasonably incident to analysis of the specimen for controlled substances (e.g., determination of PH or tests for specific gravity, creatinine concentration, or presence of adulterants).

##### **B. PROCEDURES**

1. The collection site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory designated by the Township. An independent medical facility may also be utilized when in compliance with the law.
2. A designated collection site shall be any suitable location where a specimen can be collected under conditions set forth below, including a properly equipped mobile facility. A designated collection site shall have an enclosure within which private urination can occur, a toilet for completion of urination, and a suitable clean surface for writing. The site must also have a source of water for washing hands, which if practicable, should be external to the enclosure where urination occurs.
3. The collection site person shall utilize the drug testing custody and control form (COC) provided by the Township; this form must address the requirements as contained in 49 CFR, Part 40.
4. The drug testing custody and control form may include such additional information as may be required for billing or other legitimate purposes necessary to the collection, provided that personal identifying information on the donor (other than the social security number or employee identification number) may not be provided to the laboratory. Donor medical information may appear only on the copy provided to the donor.

C. SECURITY

1. The purpose of this section is to prevent unauthorized access which could compromise the integrity of the collection process of the specimen.
2. The designated collection site is to be secure. If a collection site facility is dedicated solely to urine collection, it shall be secure at all times. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secure during drug testing.
3. A facility normally used for other purposes, such as a public rest room or hospital examining room, may be secured by visual inspection to ensure other persons are not present and undetected access (e.g., through a rear door not in the view of the collection site person) is not possible. Security during collection may be maintained by effective restriction of access to collection materials and specimens. In the case of a public rest room, the facility must

be posted against access during the entire collection procedure to avoid embarrassment to the employee or distraction of the collection site person.

4. If it is impractical to maintain continuous physical security of a collection site from the time the specimen is presented until the sealed mailer is transferred for shipment, the following minimum procedures shall apply:
  - a) The specimen shall remain under the direct control of the collection site person from delivery to its being sealed in the mailer.
  - b) The mailer shall be immediately mailed, maintained in secure storage, or remain under the personal control of the collection site person until mailed.

D. CHAIN OF CUSTODY

1. The chain of custody block of the drug testing custody and control form shall be properly executed by authorized collection site personnel upon receipt of specimens.
2. Handling the transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

E. ACCESS TO AUTHORIZED PERSONNEL ONLY

1. No unauthorized personnel shall be permitted in any part of the designated collection site when urine specimens are collected or stored. Only the collection site person may handle specimens prior to their securement in the mailing container or monitor or observe a specimen collection (under the conditions specified in this section).
2. To promote security of specimens, avoid distraction of the collection site person, and ensure against any confusion in the identification of specimens, the collection site person shall have only one donor under supervision at anytime.
3. For this purpose, a collection procedure is complete when the urine bottle has been sealed and initialed, the drug testing custody and control form has been executed, and the employee has departed the site (or, in the case of an

employee who was unable to provide a complete specimen, has entered a waiting area).

F. PRIVACY

1. Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided, as further described in this paragraph.
2. For purposes of this procedure, the following circumstances are the exclusive grounds constituting a reason to believe that the individual may have altered or substituted the specimen:
  - a. The employee has presented a urine specimen that falls outside the normal temperature range (32.5 degrees - 37.7 degrees-C/90.5 degrees - 99.8 degrees-F), and
    - 1) the employee declines to provide a measurement of oral body temperature, as provided in paragraph G. 13. of this section; or
    - 2) oral body temperature varies by more than 1 degree-C/1.8 degree-F from the temperature of the specimen.
  - b. The last urine specimen provided by the employee (i.e., on a previous occasion) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L.
  - c. The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented); or
  - d. The employee has previously been determined to have used a controlled substance without medical authorization and the particular test was being conducted under a DOT regulation providing for follow-up testing upon or after return to service.
3. A higher-level supervisor of the collection site person, or a designated Township representative, shall review and concur in advance with any

decision by a collection site person to obtain a specimen under the direct observation of a same gender collection site person based upon the circumstances described in paragraph 2 above.

G. INTEGRITY AND IDENTITY OF SPECIMEN

The collection site person shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine bottle and on the urine custody and control form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

1. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks wherever possible, so the reservoir of water in the toilet bowl always remains blue. Where practicable, there shall be no other source of water (e.g., no shower or sink) in the enclosure where urination occurs. If there is another source of water in the enclosure, it shall be effectively secured or monitored to ensure it is not used as a source for diluting the specimen.
2. When an individual arrives at the collection site, the collection site person shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo identification or identification by the employer's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection. If the employee requests, the collection site person shall show proper identification to the employee.
3. If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.
4. The collection site person shall ask the individual to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments. The individual may retain his or her wallet. If the employee requests it, the collection site person shall provide the employee a receipt for any personal belongings.

5. The individual shall be instructed to wash and dry his or her hands prior to urination.
6. After washing hands, the individual shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent, or any other materials which could be used to adulterate the specimen.
7. The individual shall, if practicable, provide their specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy. The collection site person shall provide the individual with a specimen bottle or collection container, if applicable, for this purpose.
8. The collection site person shall note any unusual behavior or appearance on the urine custody and control form.
9. In the exceptional event that an employer-designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., circumstances require a post-accident test), a public rest room may be used according to the following procedures: A collection site person of the same gender as the individual shall accompany the individual into the public rest room which shall be made secure during the collection procedure. If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the individual not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the individual will be instructed to flush the toilet and to participate with the collection site person in completing the chain-of-custody procedures.
10. Collection Methodology.
  - a) Upon receiving the specimen from the individual, the collection site person shall determine if it has at least 30ml of urine for the primary or single specimen bottle and, where the split specimen collection method is used, an additional 15ml of urine for the split specimen bottle. If the individual is unable to provide such a quantity of urine, the collection site person shall instruct the individual to drink not more than 24 ounces of fluids and, after a period of up to two hours,

again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the employer notified. The Medical Review Officer (“MRO”) shall refer the individual for a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. Upon completion of the examination, the MRO shall report his or her conclusions to the employer in writing.

- b) In pre-employment testing, if the Township does not wish to hire the individual, the MRO is not required to make such a referral. Upon completion of the examination, the MRO shall report his/her conclusion to the Township in writing.

11. The procedures set forth below shall be used for specimen collection:

- a) The donor shall urinate into a collection container or specimen bottle capable of holding at least 60 ml.
- b) If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.
- c) If a single specimen bottle is included as a collection container, the collection site person shall pour 30 ml of urine from the specimen bottle into a second specimen bottle (to be used as the primary specimen) and retain the remainder (at least 15 ml) in the collection bottle (to be used as the split specimen).
- d) Both bottles shall be shipped in a single shipping container, together with copies 1,2, and the split specimen copy of the chain-of-custody form, to the laboratory.
- e) If the test result of the primary specimen is positive, the employee may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary

specimen. The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive test result.

- f) When the MRO informs the laboratory in writing that the employee has requested a test of the split specimen, the laboratory shall forward, to a different DHHS-approved laboratory, the split specimen bottle, with seal intact, a copy of the MRO request, and the split specimen copy of the chain-of-custody form with appropriate chain-of-custody entries.
  - g) The result of the test of the split specimen is transmitted by the second laboratory to the MRO.
  - h) Action required by DOT agency regulations as the result of a positive drug test (e.g., removal from performing a safety-sensitive function) is not stayed pending the result of the test of the split specimen.
  - I) If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the DOT, the employer, and the employee.
12. After the specimen has been provided and submitted to the collection site person, the individual shall be allowed to wash his or her hands.
  13. Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measure is critical and in no case shall exceed 4 minutes.
  14. A specimen temperature outside the range of 32.5 degrees-C - 37.7 degrees-C/90.5 degrees-F - 99.8 degrees-F, constitutes a reason to believe that the individual has altered or substituted the specimen (See Section F.2.a.). In such cases, the individual supplying the specimen may volunteer to have their temperature taken to provide evidence to counter the reason to believe the individual may have altered or substituted the specimen.
  15. Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of



contaminants. Any unusual findings shall be noted on the urine custody and control form.

16. All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.
17. Whenever there is reason to believe that a particular individual has altered or substituted the specimen as described in Section F.2.a. and c., a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person.
18. Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. As provided below, the specimen shall be sealed by placement of a tamper-proof seal over the bottle cap and down the sides of the bottle and labeled in the presence of the employee. If the specimen is transferred to a second bottle, the collection site person shall request the individual to observe the transfer of the specimen and the placement of the tamper-proof seal over the bottle cap and down the sides of the bottle.
19. The collection site person and the employee shall be present at the same time during procedures outlined in items 20 through 24 of this section.
20. The collection site person shall place securely on the bottle an identification label which contains the date, the individual's specimen, number, and any other identifying information provided or required by the employer. If separate from the label, the tamper-proof seal shall also be applied.
21. The individual shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collection from the donor.
22. The collection site person shall enter on the drug testing custody and control form all information identifying the specimen. The collection site person shall sign the drug testing custody and control form certifying that the collection was accomplished according to the applicable Federal requirements.
23. The individual shall be asked to read and sign a statement on the drug testing custody and control form that the specimen collected from him/her is in fact that specimen he/she provided.

24. The collection site person shall complete the chain of custody portion of the drug testing custody and control form to indicate receipt of the specimen from the employee and shall certify proper completion of the collection.
25. The urine specimen and chain-of-custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, the collection site person shall ensure that it is appropriately safeguarded during temporary storage.
26. Control of Specimen
  - a) While any part of the above chain-of-custody procedures is being performed, it is essential that the urine specimen and custody documents be under the control of the involved collection site person.
  - b) If the involved collection site person leaves their work station momentarily, the collection site person shall take the specimen and drug testing custody and control form with them or shall secure them. After the collection site person returns to the work station, the custody process will continue. If the collection site person is leaving for an extended period of time, they shall package the specimen for mailing before leaving the site.
  - c) The collection site person shall not leave the collection site in the interval between presentation of the specimen by the employee and securement of the sample with an identifying label bearing the employee's specimen identification number and seal initialed by the employee. If it becomes necessary for the collection site person to leave the site during this interval, the collection shall be nullified and at the election of the Township a new collection may be begun.

#### H. COLLECTION CONTROL

To the maximum extent possible, collection site personnel shall keep the individual's specimen bottle within sight both before and after the individual has urinated. After the specimen is collected, it shall be properly sealed and labeled.

#### I. TRANSPORTATION TO LABORATORY

Collection site personnel shall arrange to ship the collected specimens to the drug testing laboratory. The specimens shall be placed in shipping containers designed to minimize the possibility of damage during shipment (e.g., specimen boxes and/or padded mailers); and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the container, the collection site person shall sign and enter the date specimens were sealed in the containers for shipment. The collection site person shall ensure that the chain-of-custody documentation is attached to each container sealed for shipment to the drug testing laboratory.

J. FAILURE TO COOPERATE

If the employee refuses to cooperate with the collection process, the collection site person shall inform the designated Township representative and shall document the non-cooperation on the drug testing custody and control form.

K. EMPLOYEE REQUIRING MEDICAL ATTENTION

If the sample is being collected from an employee in need of medical attention as part of a post-accident test given in an emergency medical facility, necessary medical attention shall not be delayed in order to collect the specimen.

L. USE OF CHAIN-OF-CUSTODY FORMS

A chain-of-custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on the form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.

II. LABORATORY PROCEDURES

A. TESTING

1. Initial Test - The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution.

2. Confirmatory Test - All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as “greater than highest standard value.”
3. A test shall be considered to be “positive” for a controlled substance when the resulting level of controlled substance meets or exceeds the cutoff level for that test and substance as contained in the regulations promulgated by the Department of Transportation.

B. REPORTING RESULTS

1. The laboratory shall report test results to the Township’s MRO within an average of five (5) working days after receipt of the specimen by the laboratory. Before any test is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, the specimen number assigned by the employer, and the drug testing laboratory specimen.
2. The laboratory shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported positive for a specific drug.
3. The MRO may request from the laboratory and the laboratory shall provide quantitation of test results. The MRO shall report whether the test is positive or negative and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation of test results to the Township. The MRO may reveal the quantitation of a positive test result to the Township, the employee, or the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from a verified positive drug test.
4. The laboratory may transmit results to the MRO by various electronic means (e.g., teleprinter, facsimile, or computer) in a manner designed to ensure confidentiality of the information. Results may not be provided by telephone. The laboratory and employer must ensure the security of the data

transmission and limit access to any data transmission, storage and retrieval system.

5. The laboratory shall send only to the MRO the original or a certified true copy of the drug testing custody and control form (copy 1), which, in the case of a report positive for drug use, shall be signed (after the required certification block) by the individual responsible for day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test reports, and attached to which shall be a copy of the test report.
6. The laboratory shall provide to the Township official responsible for coordination of the drug testing program a quarterly statistical summary of urinalysis testing of the Township's employees and shall not include in the summary any personal identifying information. Initial and confirmation data shall be included from test results reported within that quarter. Normally this summary shall be forwarded by registered or certified mail not more than 14 calendar days after the end of the quarter covered by the summary. The summary shall contain the following information:
  - a. Initial Testing:
    - Number of specimens received;
    - Number of specimens reported out; and
    - Number of specimens screened positive for:
      - Marijuana metabolites
      - Cocaine metabolites
      - Opiate metabolites
      - Phencyclidine
      - Amphetamines
  - b. Confirmatory Testing:
    - Number of specimens received for confirmation;
    - Number specimens confirmed positive for:
      - Marijuana metabolite
      - Cocaine metabolite
      - Morphine, codeine
      - Phencyclidine
      - Amphetamine
      - Methamphetamine

7. Monthly reports shall not include data from which it is reasonably likely that information about individuals' tests can be readily inferred. If necessary, in order to prevent the disclosure of such data, the laboratory shall not send a report until data are sufficiently aggregated to make such an inference unlikely. In any month in which a report is withheld for this reason, the laboratory will so inform the employer in writing.
8. The laboratory shall make available copies of all analytical results for the Township's drug testing programs when requested by DOT with regulatory authority over the Township.
9. Unless otherwise instructed by the Township in writing, all records pertaining to a given urine specimen shall be retained by the drug testing laboratory for a minimum of 2 years.

C. LONG-TERM STORAGE

Long-term frozen storage (-20 degrees-C or less) ensures that positive urine specimens will be available for any necessary retest during administrative or disciplinary proceedings. Drug testing laboratories shall retain and place in properly secured long-term frozen storage for a minimum of 1 year all specimens confirmed positive, in their original labeled specimen bottles. Within this 1-year period, an employer (or other person designated in a DOT agency regulation) may request the laboratory to retain the specimen for an additional period of time, but if no such request is received, the laboratory may discard the specimen after the end of 1 year, except that the laboratory shall be required to maintain any specimens known to be under legal challenge for an indefinite period.

D. RETESTING SPECIMENS

Because some analyses deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

E. SUBCONTRACTING

Drug testing laboratories shall not subcontract and shall perform all work with their own personnel and equipment. The laboratory must be capable of performing testing for the five classes of drugs (marijuana, cocaine, opiates, phencyclidine, and amphetamines) using the initial immunoassay and confirmatory GC/MS methods

specified in this appendix. This paragraph does not prohibit subcontracting of laboratory analysis if specimens are sent directly from the collection site to the subcontractor, the subcontractor is a laboratory certified by DHHS, the subcontractor performs all analysis and provides storage required under this appendix, and the subcontractor is responsible to the Township for compliance with this appendix and applicable DOT regulations as if it were the prime contractor.

F. INSPECTIONS

DOT, any entity utilizing the laboratory, DHHS, or any organization performing laboratory certification on behalf of DHHS reserves the right to inspect the laboratory at any time. Contracts with laboratories for drug testing, as well as contracts for collection site services, shall permit the Township and the DOT (directly or through an agency) to conduct unannounced inspections.

G. DOCUMENTATION

The drug testing laboratories shall maintain and make available for at least 2 years documentation of all aspects of the testing process. This 2-year period may be extended upon written notification by DOT or by the Township. The required documentation shall include personnel files on all individuals authorized to have access to specimens; chain-of-custody documents; quality assurance/quality control records; procedure manuals; all test data (including calibration curves and any calculations used in determining test results); reports; records on performance testing; performance on certification inspections; and hard copies of computer-generated data. The laboratory shall maintain documents for any specimen known to be under legal challenge for an indefinite period.

H. PROTECTION OF EMPLOYEE RECORDS

1. Employer contracts with laboratories shall require that the laboratory maintain employee test records in confidence, as provided in the DOT regulations.
2. The contracts shall provide that the laboratory shall disclose information related to a positive drug test of an individual to the individual, the employer, or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a certified positive drug test.

### **III. BLIND PERFORMANCE TEST PROCEDURES**

#### **A. GENERAL**

1. The Township shall use blind testing quality control procedures as provided in this section.
2. The Township shall submit three blind performance test specimens for each 100 employee specimens it submits, up to a maximum of 100 blind performance test specimens submitted per quarter. The Department of Transportation may increase this per quarter maximum number of samples if doing so is necessary to ensure adequate quality control of employers or consortiums with very large numbers of employees.

#### **B. COVERED EMPLOYEES**

1. Under the governing Federal Regulations, employers with 2,000 or more covered employees, approximately 80 percent of the blind performance test samples shall be blank (i.e., containing no drugs or otherwise as approved by DOT) and the remaining samples shall be positive for one or more drugs per sample in a distribution such that all the drugs to be tested are included in approximately equal frequencies of challenge. The positive samples shall be spiked only with those drugs for which the employer is testing. This paragraph shall not be construed to prohibit spiking of other (potentially interfering) compounds, as technically appropriate, in order to verify the specificity of a particular assay.
2. Since the Township employs fewer than 2,000 employees, it may submit blind performance test specimens as provided in the above paragraph. However, the Township may also submit only blank samples or may submit two separately labeled portions of a specimen from the same non-covered employee.

#### **C. INVESTIGATIONS AND FALSE POSITIVE**

1. The Department of Transportation shall investigate, or shall refer to DHHS for investigation, any unsatisfactory performance testing result and, based on this investigation, the laboratory shall take action to correct the cause of the unsatisfactory performance test result. A record shall be made of the investigative findings and the corrective action taken by the laboratory, and that record shall be dated and signed by the individual responsible for the



day-to-day management and operation of the drug testing laboratory. The Department of Transportation shall send the document to the Township as a report of the unsatisfactory performance testing incident. The Department of Transportation shall ensure notification of the finding, to DHHS.

2. Should a false positive error occur on a blind performance test specimen and the error is determined to be an administrative error (clerical, sample mix-up, etc.), the Township shall promptly notify the Department of Transportation. The Department of Transportation and the Township shall require the laboratory to take corrective action to minimize the occurrence of the particular error in the future, and, if there is reason to believe the error could have been systemic, The Department of Transportation may also require review and reanalysis of previously run specimens.
3. Should a false positive error occur on a blind performance test specimen and the error is determined to be a technical or methodological error, The Township shall instruct the laboratory to submit all quality control data from the batch of specimens which included the false positive specimen to the Department of Transportation. In addition, the laboratory shall retest all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This retesting shall be documented by a statement signed by the individual responsible for day-to-day management of the laboratory's urine drug testing. The Department of Transportation may require an on-site review of the laboratory which may be conducted unannounced during any hours of operation of the laboratory. DHHS has the option of revoking or suspending the laboratory's certification or recommending that no further action be taken if the case is one of less serious error in which corrective action has already been taken, thus reasonably assuring that the error will not occur again.

#### **IV. REVIEW OF DRUG TESTING RESULTS**

##### **A. GENERAL**

1. The Township shall have on staff or contract the services of an MRO. The MRO shall be a licensed physician with knowledge of drug abuse disorders. The MRO shall review all negative and positive drug test results and interview individuals tested positive to verify the laboratory report before the Township is notified. The review of a negative test may be an administrative process to ensure the chain-of-custody procedures were intact. The MRO

shall also recommend to the Township whether and when an employee who refused to take or did not pass a drug test may return to work and schedule follow-up unannounced drug testing for a period of 60 months.

2. The MRO has contracted with the Township to provide the services of an MRO for this drug testing policy in accordance with the requirements of §40.33.

## B. REPORTING AND REVIEW OF RESULTS

1. The MRO shall review confirmed positive results. An essential part of the drug testing program is the formal review of confirmed positive results from the laboratory. A positive test result does not automatically identify an employee/applicant as having used drugs in violation of a DOT regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by the MRO prior to the transmission of results to the Township's administrative officials. The MRO review shall include review of the chain-of-custody to ensure that it is complete and sufficient on its face.
2. The duties of the MRO with respect to negative results are purely administrative.

## C. QUALIFICATIONS AND RESPONSIBILITIES

1. The MRO shall be a licensed physician with knowledge of substance abuse disorders and may be an employee of the Township or a private physician retained for this purpose. The MRO shall not be an employee of the laboratory conducting the drug test unless the laboratory establishes a clear separation of functions to prevent any appearance of a conflict of interest including assuring that the MRO has no responsibility for, and is not supervised by or the supervisor of, any persons who have responsibility for the drug testing or quality control operations of the laboratory.
2. The role of the MRO is to review and interpret confirmed positive test results obtained through the Township testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical

records made available by the tested individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

3. The MRO may require the original specimen be reanalyzed to determine the accuracy of the test result. The MRO may verify that the laboratory report and assessment are correct.

D. POSITIVE TEST RESULTS

1. Prior to making a final decision to verify a positive test result, the MRO shall give the individual an opportunity to discuss the test result with him/her.
2. The MRO shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the employee. Except as provided in paragraph 5 of this section, the MRO shall talk directly with the employee before verifying a test as positive.
3. If, after making all reasonable efforts and documenting them, the MRO is unable to reach the individual directly, the MRO shall contact a designated management official who shall direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through the designated management official, such official shall employ procedures that ensure, to the maximum extent practicable, that the requirement of the employee to contact the MRO is held in confidence.
4. If, after making all reasonable efforts, the designated management official is unable to contact the employee, the Township may place the employee on temporary medically unqualified status or medical leave.
5. The MRO may verify a test as positive without having communicated directly with the employee about the test in three circumstances:
  - a) The employee expressly declines the opportunity to discuss the test;
  - b) The designated Township representative has successfully made and documented a contact with the employee and instructed the employee

to contact the MRO (See paragraphs D.3 and D.4 of this section), and more than five days have passed since the date the employee was successfully contacted by the designated Township representative; or

- c) Neither the MRO nor the designated Township representative, after making all reasonable efforts, has been able to contact the employee within 14 days of the date on which the MRO received the confirmed positive result from the laboratory; or
- d) Other circumstances provided for in The Department of Transportation's Drug Testing Regulations.

- 6. If a test is verified positive under the circumstances specified in paragraph 5 of this section, the employee may present to the MRO information documenting that serious illness, injury, or other circumstances which unavoidably prevented the employee from timely contacting the MRO. The MRO, on the basis of such information, may reopen the verification allowing the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO declares the test to be negative.
- 7. Following verification of a positive test result, the MRO shall, as provided in the Township's policy, refer the case to the Township (or its designee) for action.

E. VERIFICATION FOR OPIATES; REVIEW FOR PRESCRIPTION MEDICATION

- 1. Before the MRO verifies a confirmed positive result for opiates, the MRO shall determine that there is clinical evidence, in addition to the urine test, of unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine).
- 2. This requirement does not apply if the Township's GC/MS confirmation testing for opiates confirms the presence of 6-monoacetylmorphine.

F. RECONFIRMATION ANALYSIS AUTHORIZATION

The MRO shall notify each individual who has a confirmed positive test that he/she has 72 hours in which to submit a request to the MRO for a test of the split specimen.

The MRO will then direct in writing that the split specimen be provided to another DHHS certified laboratory for analysis. If the reanalysis fails to confirm the presence of the drug(s) or drug metabolite(s), or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the DOT, the employer and employee. If an employee has not contacted the MRO within 72 hours, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall direct that the reanalysis be performed. The employee/applicant must pay the total cost of shipment (if any) and reanalysis of the sample at the time the request for retesting is made. If the retest is negative, the Township will reimburse the employee for these costs. The laboratory performing the retest shall follow approved chain of custody procedures when handling the sample during the retesting procedure.

G. RESULTS CONSISTENT WITH LEGAL DRUG USE

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the Township as negative.

H. RESULTS SCIENTIFICALLY INSUFFICIENT

1. The MRO, based on review of inspection reports, quality control data, multiple samples, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation the MRO may request reanalysis of the original sample before making this decision. The MRO may request that reanalysis be performed by the same laboratory or, as provided in paragraph F above, that an aliquot of the original specimen be sent for reanalysis to an alternate laboratory which is certified in accordance with the DHHS guidelines.
2. The laboratory shall assist in this review process as requested by the MRO by making available the individual responsible for day-to-day management of the urine drug testing laboratory or other employee who is a forensic

toxicologist or who has equivalent forensic experience in urine drug testing, to provide specific consultation as required by the Township. The Township shall include in any required annual report to the Department of Transportation a summary of any negative findings based on scientific insufficiency but shall not include any personal identifying information in such reports.

I. DISCLOSURE OF INFORMATION

1. Except as provided in this paragraph, the MRO shall not disclose, to any third party, medical information provided by the individual to the MRO as a part of the testing verification process.
2. The MRO may disclose such information to the Township, DOT or other Federal safety agency, or a physician responsible for determining the medical qualification of the employee under the appropriate DOT regulation, as applicable, only if:
  - a. An applicable DOT regulation permits or requires such disclosure;
  - b. In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT rule; or
  - c. In the MRO's reasonable medical judgment, in a situation in which there is no DOT rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her covered function could pose a significant safety risk.
3. Before obtaining medical information from the employee as part of the verification process, the MRO shall inform the employee that information may be disclosed to third parties as provided in this paragraph and the identity of any parties to whom information may be disclosed.

Effective 8-9-2000



**ACKNOWLEDGMENT**

\_\_\_\_\_, certifies that he/she has received a copy of Waterford Township's Manual on Drug and Alcohol Testing under the Omnibus Transportation Workers Testing Act of 1991.

\_\_\_\_\_  
Employee Signature