WHEREAS, under section 12 of the Conservation District Act, 70 ILCS 410/12 (The “Act”), a district is authorized and empowered “To adopt by-laws, adopt and use a common seal, to enter into contracts, acquire and hold real and personal estate and take such other actions as may be necessary for the proper conduct of its affairs”; and

WHEREAS, the District is authorized “to make and publish all ordinances, rules, and regulations necessary for the management and protection of its property and the conduct of its affairs”; and

WHEREAS, the District has determined that it is reasonable, necessary and desirable to set forth policies to clarify the organization and administration of the District; and

WHEREAS, the District had previously created the Personnel Policy Manual on July 19, 2007, and individual portions of the Personnel Policy Manual were amended by ordinances at various times prior to and on March 24, 2020;

WHEREAS, the District has found it reasonable, necessary and desirable to amend this policy to incorporate changes as required by the Federal Motor Carrier Safety Administration and modify Appendix B - Alcohol and Drug Procedures for CDL employees.

NOW, THEREFORE, be it resolved by the President and the Board of Trustees of the McHenry County Conservation District that the Personnel Policy be amended as described in the attached as Exhibit A and including:

| Appendix B | ALCOHOL & DRUG PROCEDURES FOR CDL EMPLOYEES |

FURTHERMORE, be it ordained that the Secretary for the District and the Executive Director are hereby authorized and directed to prepare and place on file the revised Personnel Policy Manual in accordance with this ordinance.
PASSED AND APPROVED by the President and Board of Trustees of the McHenry County Conservation District the 26th day of May, 2020.

Ayes: __7__  
Nays: __0__  
Absent: __0__  
Abstain: __0__

Approved: _______________________________  
VERNON SCACCI, PRESIDENT  
BOARD OF TRUSTEES

Attest: _______________________________  
CAROLYN CAMPBELL, SECRETARY  
BOARD OF TRUSTEES
APPENDIX B – ALCOHOL AND DRUG PROCEDURES FOR CDL EMPLOYEES

D.O.T. DRUG AND ALCOHOL PROCEDURE

INTRODUCTION
In an effort to promote public safety and to help prevent accidents and injuries, the U.S. Department of Transportation (D.O.T.) instituted regulations that establish a zero-tolerance level for the presence of alcohol or controlled substances in the system of any individual who operates or maintains a commercial class vehicle. The regulations establish testing requirements to help ensure compliance with the alcohol and controlled substance prohibitions. The controlled substances prohibited by the D.O.T. regulations are: Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine (PCP). The following procedures have been developed to implement the D.O.T. regulations, which can be found in 49 CFR Parts 40 and 382. The numbers inside the parentheses appearing in many of the sections refer to 49 CFR Part 40 or 382 sections relevant to the particular procedure. Employees who violate this policy are subject to disciplinary action, up to and including termination.

Employees may access the confidential Employee Assistance Program (EAP) for information and assistance with alcohol or drug use. Employees may obtain information about the District’s EAP through the employee’s supervisor, Human Resources, information posted on designated bulletin boards in facilities/shops, or access the information on the District’s intranet under Human Resources.

AFFECTED EMPLOYEES
The following employees are subject to these alcohol and drug procedures, restrictions, and requirements: All employees who are required to have a valid CDL driver’s license as a condition of employment and operate a commercial vehicle for the District. This includes full-time and part-time employees.

The above employees are subject to these procedures and regulations at all times while on duty including all overtime and when on call. An exception may be made by a Director to exempt an employee from alcohol use restrictions if the employee is attending off site training and is not expected to return to duty for the remainder of the day. However, when attending such business or social gatherings, employees are expected to adhere to Policy 9.27 Vehicle Use in that no employee may be under the influence while operating any District vehicle.

EMPLOYEE REQUIREMENTS (382.201 to .215):
To meet the D.O.T. regulations, the following requirements are placed upon affected employees. Exceptions to these requirements may be made by a Director in making temporary work assignments for employees.

1. Affected employees will not consume or possess any product containing alcohol or controlled substances while on duty.

2. Affected employees will not report for duty while there is any alcohol or controlled substance in their system (unless the use is pursuant to the instruction of a physician who has been informed of the affected employee’s job duties, and has advised the affected employee that the substance does not adversely affect his/her ability to safely perform his/her job).
3. Affected employees cannot report for duty within four (4) hours of having consumed alcohol and may not perform safety-sensitive functions (this includes but is not limited to operating motor vehicles or equipment) within four (4) hours after using alcohol.

4. Affected employees must immediately report for testing when so ordered, and must cooperate with testing personnel and procedures.

5. Affected employees must agree to release testing results to the District and to the substance abuse professional (S.A.P.), and to release the substance abuse professional’s report to the District.

6. Affected employees cannot consume alcohol for eight (8) hours following an accident involving a death or an accident for which the employee received a moving violation for their operation of a commercial class vehicle which contributed to the accident or until the employee undergoes a post-accident or controlled substance test, whichever occurs first. The employee must remain available for testing for a period of eight (8) hours for an alcohol test or seventy-two (72) hours for a controlled substance test.

TESTS PERFORMED
Detailed descriptions of the testing procedures are contained in 49 CFR Part 40 and Part 382. A brief description of the testing procedure follows.

**Alcohol Test:**

1. Employee immediately reports to the designated testing facility, shows a photo identification card, and signs testing form.

2. Employee blows into alcohol testing device. If employee cannot exhale sufficient quality of air through the machine for a complete test a medical exam will be performed.

3. If test results are negative the employee will be required to return to work. Results will be reported to the Human Resources Manager and/or the Executive Director.

4. If test results are positive, another test will be performed after a 15-minute wait but before 20 minutes. The employee may not eat or drink anything nor belch during the waiting period for the retest.

5. If retest results are negative, test is reported to Human Resources Manager and/or the Executive Director, as negative.

6. If retest results are positive, the test results are immediately reported to the Human Resources Manager and/or the Executive Director. The employee will not be allowed to return to work and arrangements will be made to drive the employee home.

**Controlled Substances Test:**
Testing will only be performed for the five controlled substances prohibited by the D.O.T. regulations - Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine.

1. Employee immediately reports to the designated testing facility, shows a photo identification card, and signs the testing form.

2. Employee provides a urine sample. If unable to provide sufficient quantity for testing, the employee will be asked to drink water (up to 24 oz. in two hours) and attempt test again.
3. Hospital personnel will perform required testing to verify that the specimen sample has not been tampered with. Employees will be required to return to work upon completion of testing.

4. Sample is sent to lab where it is split in half. A screening test is performed on a portion of one of the sample splits. If negative results are obtained, the testing is reported as negative to the medical review officer (M.R.O.) who in turn reports negative results to the Human Resources Manager and/or the Executive Director.

5. If screening tests are positive, sophisticated confirmation testing is performed on the rest of the split sample. Results are reported to the M.R.O. If negative the M.R.O. reports a negative result to the Human Resources Manager and/or the Executive Director.

6. If the results are positive, confirming the presence of one of the five controlled substances, the M.R.O. will contact the employee to talk over the results of the test to determine if there is a legitimate clinical reason for the presence of the drug, and will decide if test results are negative or positive. If the employee cannot be reached by the M.R.O., the Director will be contacted to tell the employee to contact the M.R.O. If the employee does not contact the MRO within seventy-two (72) hours the M.R.O. will determine the test results as positive. The M.R.O. reports to the Human Resources Manager and/or the Executive Director test results as positive or negative.

7. If test results are positive, the employee will be removed from duties of operating or maintaining a commercial class vehicle. The employee has seventy-two (72) hours in which to request a retest of the second split sample, and can request that the split sample be tested at a second lab. A negative retest of the split sample will cancel the first positive results.

SIX CIRCUMSTANCES UNDER WHICH TESTING IS PERFORMED

1. **Pre-employment Testing (382.301, .413):**
   a. Before a new employee is hired or before an existing employee may be transferred to a position in which operating or maintaining a commercial class vehicle is required, both alcohol and controlled substance testing is required.
   b. If an employee has not been in a random testing pool for one (1) month, then alcohol and controlled substance testing must be performed before the employee may operate or maintain a commercial class vehicle.
   c. Alcohol test results must be below 0.04 and controlled substances negative or the employee cannot be hired to the position without a substance abuse professional evaluation. There is no requirement that the prospective employee be hired or that they see the M.R.O. or S.A.P., but an attempt must be made to inform the prospective employee of the test results.
   d. In addition to submitting to testing, the prospective employee must supply the District with the names of all firms for which they have been employed in the previous two (2) years operating or maintaining commercial class vehicles. The prospective employee must cooperate fully with the District in obtaining from each of the previous employer’s results of any positive test, S.A.P.’S reports, and any refusals to test.
2. **Random Testing (382.305):**
   a. All affected employees will be placed in pool from which random selections for testing will be made. Random testing will be for both alcohol and controlled substances.
   
b. The annual rate of testing for the entire pool will be as directed by the U.S. Secretary of Transportation, currently 10% per year for alcohol and 50% per year for illegal drugs.
   
c. Every employee in the selection pool has an equal chance of being selected each time a drawing is made.
   
d. Selection for testing will be performed on a sufficiently random basis by a neutral third party. Employees will not know when testing is complete for the year nor when to anticipate the next selection.
   
e. A surplus of names will be generated so that another selection may be made in place of an employee who is temporarily on leave.

3. **Reasonable Suspicion Testing (382.307):**
   a. When a supervisor has reason to believe that an employee has alcohol or controlled substances in their system they contact another supervisor or management official trained in the signs and symptoms of drug and/or alcohol misuse who will observe the employee. If both supervisors are in agreement, the Human Resources Manager and the Executive Director will be notified of the situation and the employee will be driven to the designated testing facility for alcohol or controlled substances testing as appropriate.
   
b. The supervisor’s determination must be based upon specific, describable, current observations of the employee’s appearance, behavior, speech or body odor. Possession alone is not sufficient cause to require the employee to submit to testing.
   
c. When a reasonable suspicion determination has been made, the employee must immediately stop operation or maintenance of a commercial class vehicle, or any District vehicle. (For 24 hours or until a negative test result whichever comes first).
   
d. The employee will be informed of his or her right to consent or refuse testing, and the consequences of refusing testing or failing an alcohol or drug test. The employee will be asked to review and sign a Consent/Refusal Form.
   
e. The Human Resources Manager or the Executive Director calls the designated testing facility to advise that the employee will be reporting for the testing. The employee under suspicion must be accompanied to the testing facility by their supervisor or supervisor’s designee.
   
f. If an employee refuses to submit to a test, they will be required to call someone to drive him/ her home. If unable to find someone, a cab will be called. The District will pay for the cab with reimbursement by the employee when they return to work. If the employee insists on driving themselves, the local police department will be called and notified.
   
g. Testing for alcohol reasonable suspicion should be performed within two (2) hours, but cannot be conducted if eight (8) hours have passed since the determination was made. A written report must be submitted to the Human Resources Manager and/or the Executive Director for the file explaining why testing was not performed within two (2) hours.
Controlled substances testing should be performed as soon as possible, but not after thirty-two (32) hours since the determination was made.

h. The supervisor(s) making the determination must submit a signed written description to his/her Manager, Human Resources Manager and Executive Director citing the specific observations which led to the reasonable suspicion testing. The written description should be submitted before the test results have been received.

4. **Post Accident Testing (382.303):**
   
a. A surviving driver of a commercial class vehicle involved in an accident in which a death occurred or for which the driver received a ticket for the operation of their commercial vehicle having contributed to the accident, will be tested for both alcohol and controlled substances.

b. The driver will remain readily available for testing after an accident until thirty-two (32) hours have passed or earlier if a supervisor advises that testing will not be necessary.

c. A driver cannot consume any alcohol within eight (8) hours following an accident unless a supervisor advises that no testing will be required or testing has already been performed.

d. If a death occurs or a driving citation is issued, alcohol testing will be performed within two hours but no testing after eight (8) hours, and controlled substance testing within thirty-two (32) hours. A written record must be submitted to the Human Resources Manager and/or the Executive Director to be placed in a separate DOT file maintained for CDL employees explaining why alcohol testing could not be performed within two (2) hours if such is the case and a record if either testing could not be performed.

5. **Return to Duty Testing (382.309):** Alcohol and controlled substances testing will be performed with negative test results (less than 0.02 alcohol) on all affected employees who:
   
a. Have been removed from duty of operating or maintaining a commercial class vehicle for refusing to test or testing positive for controlled substances or alcohol greater than 0.04. The employee will be responsible for all costs associated with this classification of return to duty testing or

b. Have not been in a random testing pool for more than thirty (30) days. (Employees who have been on extended leave).

**Follow-up Testing (382.311,.605)**

a. Any affected employee who has refused to test or who has tested positive for controlled substances or greater than 0.04 alcohol content and has been determined by a substance abuse professional (S.A.P.) to require help in dealing with their substance abuse problem will be subject to follow up testing.

b. The Human Resources Manager or the Executive Director will order the affected employee to immediately report for surprise alcohol or controlled substance (or both) testing at the frequency prescribed by the substance abuse professional. The Human Resources Manager or the Executive Director will advise the S.A.P. of the test results. The duration of surprise testing will continue as long as required by the S.A.P. to a maximum of five (5) years.
c. At a minimum, six (6) unannounced tests will be required within the first twelve (12) months of return to duty. This minimum must be conducted regardless of whether the S.A.P. deems no more testing is required.

d. Employee is responsible for all costs associated with follow-up testing.

CONSEQUENCES OF FAILED OR REFUSED TESTS (382.605)

1. An employee will be immediately removed from duty upon the employee’s refusal to cooperate with testing procedures or upon receipt of positive test results. Employees who refuse to submit to testing or fail an alcohol or drug test are subject to disciplinary action, up to and including termination.

2. If the employee selects a substance abuse professional (S.A.P.), the employee is responsible for payment to the substance abuse professional and subsequent counseling and rehabilitation. The employee’s medical insurance may be used to help pay for these services. The Human Resources Manager will provide a list of S.A.P.’s to the employee; however, the employee is free to choose any certified S.A.P.

3. The employee must sign a release allowing the District to release the test results to the S.A.P. and signs a release for the S.A.P. to report back to the Human Resources Manager.

4. The S.A.P. will report back to the Human Resources Manager or the Executive Director that the employee:
   a. Does not require any help in dealing with a substance abuse problem- in which case the employee may be returned to full duty.
   b. That the employee requires and is cooperating with continued counseling and rehabilitation and may return to full duty, or may not return to full duty, yet.
   c. That the employee requires but is not cooperating with counseling and rehabilitation and may not return to duty.

5. The employee is responsible for obtaining any counseling or rehabilitation prescribed by the S.A.P. and must provide appropriate releases for counseling and rehabilitation professionals to report back to the S.A.P. Employees are advised that the U.S. D.O.T. regulations require that the additional counseling and rehabilitation not be performed by any business entity in which the S.A.P. has a financial interest.

6. When the S.A.P. reports to the Human Resources Manager or the Executive Director that the employee may return to full duty of operating and maintaining commercial class vehicles the employee must:
   a. Test negative in return to duty alcohol or controlled substances testing (or both tests if so indicated by the S.A.P.).
   b. Continue with any rehabilitation therapy if so prescribed by the S.A.P.
   c. Test negative in unannounced follow up testing as prescribed by the S.A.P. or at a minimum, six (6) tests in the first twelve (12) months of returning to duty as ordered by the Director.
REQUIRED TRAINING

1. To the extent possible, all affected employees will be informed of any new D.O.T. regulations and any revisions to or modification of these policies and procedures to implement the regulations.

2. All supervisory personnel will receive training in recognizing physical signs of alcohol misuse and controlled substance use prior to any employee being ordered to submit to reasonable suspicion testing by that supervisor. Sixty (60) minutes of training for alcohol misuse recognition and sixty (60) minutes of training for controlled substance use recognition is required.

3. All new employees and newly transferred employees to affected positions will receive training prior to operating or maintaining a commercial class vehicle. All newly hired supervisory personnel will receive sixty (60) minutes of alcohol misuse recognition training and sixty (60) minutes of controlled substances use training prior to their requiring any employee to submit to reasonable suspicion testing.

4. All employees will sign a receipt that they attended the training. The receipt will be kept in District records.

COMMERCIAL DRIVER’S LICENSE CLEARINGHOUSE

Effective January 6, 2020, a repository created by the Federal Motor Carrier Safety Administration (FMCSA) is collecting information on drivers’ DOT drug and alcohol violations occurring under the District’s DOT testing program.

The District and service providers are called upon to report DOT drug and alcohol testing program violations to the Clearinghouse. The District, medical review officers, third-party administrators, and substance abuse professionals must provide information when a driver:

1. Tests positive for drugs or alcohol;

2. Refuses drug and alcohol testing; and

3. Undergoes the return-to-duty (RTD) drug and alcohol rehabilitation process.

Records Maintained in the Clearinghouse

The following records will be collected and maintained in the Clearinghouse:

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 Part 382;

4. An employer’s report of actual knowledge, as defined at §382.107, including:
   a. On duty alcohol use pursuant to §382.205;
   b. Pre-duty alcohol use pursuant to §382.207;
   c. Alcohol use following an accident pursuant to §382.209; and
d. Controlled substance use pursuant to §382.213;
5. A substance abuse professional (SAP) report of the successful completion of the return-to-duty process; and
6. An employer’s report of completion of follow-up testing.

The Clearinghouse will aid the District in learning of a driver’s need start or continue with the necessary steps in the DOT return-to-duty process (i.e., Substance Abuse Professional (SAP) program) in order to operate a commercial motor vehicle (CMV).

Query Search
Under the Clearinghouse, FMCSA requires employers to:

1. Query the system for information on driver applicants, and
2. Search the database annually for current employees.

Before the District may gain access to the information in the Clearinghouse, the driver must submit electronic consent through the Clearinghouse granting the District access to the driver’s records. Further, in order for the District to query the Clearinghouse, the District must obtain prior written or electronic consent from the driver authorizing the District to conduct a full query. Failure to provide consent prevents the District from using the CDL driver in a safety-sensitive function. The District will retain the consent for 3 years from the date of its last query.

**Scroll down for receipt of policy.**
RECEIPT OF POLICY

I acknowledge that I have received a copy of the District’s revised Appendix B: Alcohol and Drug Procedures for CDL Employees effective 05/26/2020.

Driver’s Full Name (printed): ______________________________________________

Driver’s Signature: _______________________________________________________

Date: _________________
Ordinance 20-984 Amending Personnel Appendix B - CDL Drug & Alcohol testing

"Ordinance 20-984 Amending Personnel Appendix B - CDL Drug & Alcohol testing" History

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