

**DIPIETRO EXCAVATING, INC. –  
DRUG-FREE SAFETY PROGRAM POLICY**

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## STATEMENT OF DRUG-FREE SAFETY PROGRAM Rev: January 2020

It is the desire and intent of DiPietro Excavating, Inc. (*herein referred to as The Company*) to ensure that its customers receive safe and efficient services and that all employees, sub-contractors and/or leased employees are provided with a safe work environment. To achieve this goal The Company has adopted the following policy:

1. This policy will apply to all individuals, who perform work for The Company, including but not limited to, management, supervision, sub-contractors, engineers, craft workers, leased employees and clerical personnel.
2. Employees having commercial driver's licenses (CDL's) are required to be governed by a separate drug and alcohol testing policy. Effective May 9, 2017 all drivers with CDL's must participate in the Department of Transportation Federal Motor Carriers Safety Administration Program under 49 CFR 382. Testing requirements and test thresholds are specified by the Department of Transportation adhering to 49 CFR Part 40. These drivers must also participate in the company-sponsored program and are subject to company testing in addition to the mandated DOT requirements.
3. Effective January 6, 2020, the federal Drug & Alcohol Clearinghouse, a secure online database will go into effect that will give employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations. The Clearinghouse will contain records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan established by 49 CFR Part 40, this information will also be recorded in the Clearinghouse.
  1. "Drugs" as used in The Company's Substance Abuse Testing Policy refers to any controlled substance, which includes, but is not limited to alcohol, amphetamines, methamphetamine, cocaine metabolite (including crack), Opioids, heroin (6-acetylmorphine), phencyclidine (PCP), and marijuana metabolite, and ecstasy (MDMA).
  2. Clarification Regarding the Medical Use of Marijuana: Marijuana and other cannabis products are listed in **Schedule I** of the federal Controlled Substance Act, and the use of these substances remains illegal at the federal level. Therefore, the use of marijuana and other cannabis products remains prohibited for the employees of any company participating in the State of Ohio's Drug-Free Safety Program. Although the state of Ohio has recently approved the medical use of marijuana for some patients under a physician's care in some limited, strictly-regulated circumstances, under the terms of this policy the use of marijuana or other cannabis products remains strictly prohibited for all employees of this Company—even for those patients who have been directed by their physicians to consider the use of marijuana medications.
  3. If, at some future date, the US Food and Drug Administration (FDA) approves certain cannabis-derived medications, or new federal regulations are issued by the federal government which change the designation of cannabis or cannabis derived medications into a list other than Schedule I of the Controlled Substance Act, which designates substances as illegal drugs with no FDA-approved medical uses in the United States, and if those changes are accepted by the Ohio Bureau of Workers Compensation and implemented accordingly by employers who are participating in the State of Ohio's drug-Free workplace program, then this Policy will be revised accordingly at that time. Any such changes will be announced to all employees via the distribution of a written policy addendum describing such changes, and a written acknowledgment of receipt of that addendum will be collected from each employee and maintained in that employee's personnel file. Until then, though, the use of cannabis and cannabis derived medications is prohibited.
  4. Employees must report to work fit for duty, meaning that they are sufficiently mentally alert and physically capable of safely performing their job responsibilities and are free of any adverse effects of drugs or alcohol. Employees who are not fit for duty present a safety risk to themselves and to others.
  5. In keeping with The Company's commitment to safety, using, possessing, or being under the influence of alcohol or other drugs on company time or on the company's premises will be treated as a very serious and potentially dischargeable offense, even for a first offense.
  6. "Drugs" as used in The Company's Drug and Alcohol Testing Policy shall not mean a drug which has been approved for use by the Food & Drug Administration (FDA), or has been obtained and/or taken under supervision by and in accordance with prescriptions or other instructions issued by a licensed health care professional and other drugs otherwise authorized to be used under the Controlled Substances Act.

7. The Company will not hire candidates who test positive for alcohol or other prohibited drugs when undergoing pre-employment screening for alcohol and/or other prohibited substances.
8. Employees shall not use, possess, sell, manufacture or distribute alcohol or other prohibited drugs while performing company business, on company premises, on company designated work sites (including designated parking areas), operating company vehicles, operating company equipment, in the commission of company duties or business, during work hours. Furthermore, employees are prohibited from using, possessing, manufacturing or distributing illegal drugs at any time.
9. The Company, or a designated representative, reserves the right to inspect Company property at any time and for any reason, whether locked or otherwise, and to inspect personal property while located on company premises or at any site where employees may be sent on company business.
  - Company property includes, but is not limited to: Company owned or leased vehicles, buildings, parking areas, lockers, desks, closets, cabinets, toolboxes, containers, any place where employees may travel on company business, etc.
  - Any illegal substance found may be turned over to the appropriate law enforcement agency.
10. Employees utilizing prescription or over-the-counter medications which carry any precautions regarding side effects which might impair their concentration or negatively affect their job performance in any way are required to report this fact to their immediate supervisor prior to starting work, although they will not be required to disclose the underlying medical condition, nor the specific drug that they have been prescribed.
11. Failure to report utilization of such medications while on duty will be considered a violation of this policy.
12. In accordance with 49 CFR 391.41(b)(12) and other applicable state and federal regulations, under some circumstances, employees may be required to provide a medical clearance from their treating/prescribing physician indicating that the use of the prescribed medication, at the authorized dosage level, is consistent with the safe performance of the employee's duties prior to returning to duty. To assist their physician in prescribing the best possible treatment, employees should provide their physician with a detailed description of their job, including a comprehensive list of all job functions.
13. Employees will not be allowed to work while under the influence of any prescription medications that may adversely affect their ability to safely perform their work duties.
14. Individuals found to be in violation of any portion of this policy will be subject to disciplinary action up to and including possible termination, **even for a first offense**, this includes failure to adhere to all terms and provisions of any "Return-to-Work Agreement."
15. Employees who are arrested for any drug-related offense—on-duty or off—must report such arrest to their Human Resources Manager or Designated Employer Representative within three calendar days, will be required to undergo a professional substance abuse assessment, and will be required to comply with all recommendations resulting from that assessment (see Counseling & Rehabilitation).
16. Employees who are convicted of a drug-related offense will be considered in violation of this policy. However, arrests not resulting in conviction (i.e. "guilty" verdict, "guilty" plea, or plea of "no contest") will not result in any disciplinary action by The Company.
17. Attempts to adulterate or present bogus specimens will be considered a failure to comply with the testing process and a refusal to test.
18. **Rebuttable Presumption Notification:** Ohio Revised Code Sections 4123.35 and 4123.54 create a rebuttable presumption that an employee who tests positive for alcohol or drugs after an injury is not eligible for workers' compensation benefits. **This law allows for the complete rejection and denial of a claim based upon scientific evidence of the employee's recent use of drugs or alcohol.** Under this legislation, an employee who is shown to have recently used a controlled substance or alcohol (by a positive drug or alcohol test) now has the burden of proof and must establish that his/her injury was not caused by the influence of drugs or alcohol in order for his or her claim to be allowed. The presumption also arises when the employee refuses to submit to a post-accident alcohol or drug test.

## Definitions

**Adulterated Specimen** - shall mean a specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

**After-Care-Program** – A program of outpatient follow-up care and counseling to be designed by a licensed substance abuse counselor for any employee who completes a program of prohibited drug and/or alcohol rehabilitation.

**Confirmed Positive Result** - shall mean that analysis of the sample identifies the presence of one or more Drugs and the Medical Review Officer has confirmed that the Drug(s) identified is an Illegal Drug(s).

**Designated Employer Representative (DER)**  
A Designated Employer Representative will be assigned to serve as the coordinator of the Company's drug and alcohol testing procedures and serves as a liaison between parties such as the Medical Review Officer, Supervisory Personnel, etc. The Company may also designate alternate representatives to assist in answering questions on the policy and procedures.

**Diluted Sample**- shall mean a specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Follow up Testing** - Required during the period covered by the Return to Work Agreement. Requires the employee to submit to drug and alcohol tests as requested without previous notice.

**Medical Review Officer (MRO)** – A designated physician who is certified to review drug and alcohol test results. The MRO establishes the procedures and insures the chain of custody is followed.

**Negative Test Results** – Any test result, which is less than the cutoff level specified for the certified laboratories initial screening test but less than the level specified for the GC/MS test, or a blood/alcohol level less than .02 percent.

**Positive Test Result For Drugs** - Any test result in which the presence of one or more drugs has been detected, identified, and which meets or

exceeds established cutoff levels. A positive alcohol test result shall mean any level equal to or greater than .02 mg percent blood/alcohol level. A result would not be reported as positive until a confirmatory test is made.

**Prohibited Drugs** – Controlled substances included, but not limited to; Amphetamines, Marijuana or other Cannabinoids, Cocaine (including Crack), Ecstasy, Methamphetamine, Opioids, and Phencyclidine. Also, all illegal substances, designer drugs, over-the-counter drugs, or prescription drugs that have not been specifically approved for use by the Food & Drug Administration and prescribed by a licensed physician, or are not being used for the purpose and in the manner directed.

**Reasonable Cause** – Dependent on the facts of each situation, reasonable suspicion is based on performance indicators, including, but not limited to patterns of performance, including, but not limited to, unusual behavior, errors, safety violations, absenteeism, accidents and work-related incidents resulting in loss or damage of company property.

**Return-to-Work Agreement** - signed by employee following a positive test result. This "Second Chance Agreement" or "Last Chance Agreement" covers a period of no less than one year. It requires the employee to meet all recognized standards of performance, agree to submit to random and follow up testing without notice for a period of no less than one year and comply with all standards set forth in The Company's Substance Abuse Policy. The agreement also requires the employee to comply with all rehabilitative recommendations made by the employee's counselor (i.e., Employee Assistance Program Counselor, Substance Abuse Counselor, etc.), agree that failure to follow these recommendations or refusal to participate in full, including follow up testing, will result in actions up to and including termination.

**Safety Sensitive Position** – Job classifications in which the performance of normal duties by an employee who is under the influence of alcohol or prohibited drugs could result in serious injury to the employee, other employees, the general public, and/or major damage to equipment or facilities. These job classifications will be designed by and be changed at the discretion of Company management.

**Verified Positive Result** - shall mean a Positive Test Result that has been verified by gas chromatography/mass spectrometry.

**Under The Influence** – When drug test results from the gas chromatography/mass spectrometry

(GC/MS) instrumentation analysis meet or exceed the defined cutoff levels in terms of nanograms per milliliter (ng/ml) of the metabolites detected in the urine or when blood alcohol content meets or exceed two-tenths of one percent.

**DRUG AND ALCOHOL TESTING Procedures and Guidelines**

**I. Pre-Employment & New Hire Drug Testing**

- A. All individuals who submit an application for employment shall be informed at the time of the submission of application that, as a condition of an offer of employment, they will be tested for drugs and shall be given a copy of this policy. The Company makes all offers of employment subject to and conditioned on Applicants': 1) consent to taking the drug test; and 2) a negative test result. The pre-employment test for the presence of drugs must be conducted prior to an applicant's expected first day of employment. No applicant will be allowed to commence employment at The Company until the conditions set forth have been successfully completed.
- B. Applicants will be required to voluntarily submit to urinalysis for the presence of drugs and sign a voluntary consent form.
- C. Testing will be done by a federally certified laboratory that uses the highest level of care in ensuring that results are accurate. The integrity of samples will be preserved under the chain of custody standards.
- D. Urine samples will be tested, at a minimum, utilizing a 7-Panel Drug Screen as follows:

<b>Code</b>	<b>Drug</b>	<b>Screen</b>	<b>Confirmation</b>
AMP	Amphetamines	500 ng/ml	500 ng/ml
COC	Cocaine Metabolite	150 ng/ml	150 ng/ml
OPI	Opioids	2000 ng/ml	2000 ng/ml
6-AM	6-Acetylmorphine	10 ng/ml	10 ng/ml
PCP	Phencyclidine	25 ng/ml	25 ng/ml
THC	Marijuana Metabolite	50 ng/ml	15 ng/ml
MDMA	Ecstasy	500 ng/ml	500 ng/ml

- E. All test results are routinely forwarded to the Medical Review Officer (MRO). If an initial screen produces a positive result, a confirmatory test on the same sample will be conducted.
- F. The MRO will contact the applicant to discuss the results. If a plausible medical explanation for the positive test result is given by the applicant, the MRO will substantiate it with the applicant's physician or pharmacy. If the explanation is medically substantiated, the test result will be considered negative and shall be reported as negative.
- G. The MRO will report all positive and negative test results to the Company's Designated Employer Representative (DER). In the event of a negative test the DER will inform appropriate parties.
- H. A confirmed positive test result (confirmed by the MRO) will be subject to discipline up to and including termination.
- I. "New Hire Evaluation" drug testing may be performed as an unannounced test at any time during the first 90 days of employment. A confirmed positive test result will result in immediate termination of employment.
- J. The cost of Pre-Employment and New Hire Drug Testing shall be borne by the Company.

**II. Reasonable Suspicion Drug/Alcohol Testing For Cause**

- A. Reasonable suspicion testing will occur when Company management and/or supervision has reason to suspect that an employee may be in violation of this Policy. The suspicion must be documented in writing within 24 hours of the event or prior to the release of the test findings. Reasonable suspicion testing may be based upon, among other things:
  - 1. Observed behavior, such as direct observation of drug/alcohol use or possession and/or the physical symptoms of drug and/or alcohol use;
  - 2. A pattern of abnormal conduct or erratic behavior;
  - 3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking. The employee is responsible for notification of the Company, within three (3) days of a drug-related conviction;
  - 4. Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use; or
  - 5. Newly discovered evidence that the employee has tampered with a previous drug or alcohol test.

Reasonable suspicion testing does not require certainty however, mere “hunches” shall not be met the standard to order reasonable suspicion testing. To ensure that this standard is properly followed, all supervisory personnel will be trained in the recognition of drug and alcohol-related signs and symptoms and must be able to verbalize and articulate why they are convinced that the employee is demonstrating indicators of impairment. Testing may be for drugs or alcohol or both.

- B. An employee’s refusal to test or failure to cooperate with the for-cause testing process in any way that would prevent completion of the test (i.e., tampering with specimen, etc.) will not only be considered as a positive test, but will also subject that employee to disciplinary action up to and including termination of employment.
- C. If a decision is made to direct the employee for reasonable suspicion drug and/or alcohol testing, the supervisor will arrange to have the employee transported to a testing site accompanied by a management representative, or a Designated Employer Representative will arrange to have qualified personnel perform the testing at an agreed upon location. The test will be administered in a location that will protect the confidentiality of the person and the privacy of the process to the extent possible.
- D. If an employee is suspected of being in violation of this policy and has been referred for Reasonable Suspicion testing, and insists upon driving against the advice of the management, then a supervisor will notify local law enforcement authorities that that the suspected individual may be endangering the public safety by attempting to operate a vehicle while impaired.
- E. The state of Ohio’s Drug-Free Safety Program requires urine samples to be tested, at a minimum, for the following categories of substances:

Code	Drug	Screen	Confirmation
AMP	Amphetamines	500 ng/ml	500 ng/ml
COC	Cocaine Metabolite	250 ng/ml	150 ng/ml
OPI	Opioids	2000 ng/ml	2000 ng/ml
6-AM	Heroin	10 ng/ml	10 ng/ml
PCP	Phencyclidine	25 ng/ml	25 ng/ml
THC	Marijuana Metabolite	50 ng/ml	15 ng/ml
MDMA	Ecstasy	500 ng/ml	500 ng/ml

- F. All test results are routinely forwarded to the Medical Review Officer (MRO). If an initial screen produces a preliminary non-negative (positive) result, a confirmatory test on the same sample will be conducted.
- G. The MRO will contact the applicant or employee to discuss the results. If a plausible medical explanation for the positive test result is given by the applicant or employee. If the explanation is medically substantiated, the test result will be considered negative and shall be reported as negative.
- H. The MRO will report all positive and negative test results to the company’s Designated Employer Representative (DER). The DER will inform the appropriate supervisor. If the results are positive, the DER will advise the appropriate parties of the action(s) to be taken. Under no circumstances is the employee to resume his/her duties until the test results are received.
- I. Employees subjected to drug screening tests that have produced a confirmed positive result, may request to have the original sample retested at the Company’s expense by a Company approved (DHHS/SAMHSA certified) laboratory. If the results are negative the employee is eligible to return to work and is compensated at their rate for any lost scheduled time.
- J. All Drug test results reported to The Company’s DER shall be considered confidential information and shall be appropriately labeled. Results shall be stored in a secure location under lock and key with controlled access and shall not be kept as part of the employee’s employment record.

**III. Post-Accident Testing**

- A. Post-accident testing for drugs and alcohol will be conducted whenever an accident occurs as defined below. For purposes of this policy, an accident is an unplanned, unexpected or unintended event that occurs on Company property, during the conduct of the Company’s business, or during schedules working hours, or which involves Company-supplied motor vehicles or motor vehicles that are used in conducting Company business, or is within the scope of employment, and which results in any of the six (6) situations listed below:
  1. A fatality of anyone involved in the accident;
  2. Bodily injury to the employee and/or another person that requires medical attention away from the Company’s designated place of employment/work site;

3. Any accident in which the driver is cited by Law Enforcement and there is disabling damage to the vehicle(s) requiring tow-away;
4. Any accident in which the driver is cited by Law Enforcement and off-site medical treatment is required;
5. Vehicular damage determined to be significant by the Company;
6. Non-vehicular damage to any company property (i.e., tools, materials, etc.) determined to be significant by the Company.

Testing focuses on who may have caused or contributed to a work-related accident where there is an injury requiring off-site medical attention or damage to company property or vehicles in apparent excess of an amount stated above. An accident investigation is the key to determine whom to test.

- B. Drug and/or alcohol testing after an accident (as defined above):
1. Urine specimen collection (for a drug test) or breath/saliva (for an alcohol test) is to occur immediately after a need has been determined. At no time shall a drug specimen be collected after 32 hours from the time of an employment-related incident.
  2. Breath or saliva alcohol testing will be performed within two (2) hours of the incident whenever possible, but within eight (8) hours, or it won't be performed but will be documented.
  3. If the employee responsible for an employment-related accident is injured, it is a condition of employment that the employee herein expressly grants unto the Company, its officers, management, and Designated Employer Representative (DER) the right to request that attending medical personnel obtain appropriate specimens (breath, blood and/or urine) for the purpose of conducting alcohol and/or drug testing. Further, all employees herein expressly grant unto the Company, its officers, management and DER, access to any and all other medical information that may be relevant in conducting a complete and thorough investigation of the employment-related accident, to include, but not be limited to, a full medical report from the examining Licensed Health Care Providers.
  4. Post-accident tests conducted by federal, state or local authorities can be a substitute for the Company's post-accident testing. Drivers involved in an accident which did not result in a loss of life, were not given a moving citation, nor met the criteria outlined above (under section A), may still be tested under the terms of Reasonable Suspicion.
  5. Employees subjected to drug screening tests that have produced a confirmed positive result may request to have the original sample retested at their expense by a company approved DHHS/SAMHSA certified laboratory.
- C. An employee's refusal to test or failure to cooperate with the testing process in any way that would prevent completion of the test (i.e., tampering with the specimen etc.) will not only be considered as a positive test, but will also subject that employee to disciplinary action up to and including termination of employment.

#### **Employee Responsibilities:**

1. Employees (regardless of status) must immediately notify their immediate supervisor or The Company's DER regarding any on-the-job accident requiring, or that may require, medical attention (if the employee is medically able to do so), must remain available for testing, and **may not consume any alcohol for a minimum of eight (8) hours after the accident**, or until an alcohol test has been administered, whichever occurs first. If an alcohol test cannot be performed the collecting agent must document why the testing was not done.
2. Post-accident tests for drugs must be conducted as soon as possible after the accident, but never beyond 32 hours after the accident. If the drug test was not done within the 32-hour time limit, the collecting agent must document why it was not done.
3. It is the responsibility of the employee (if medically able to do so) to request that post-accident drug/alcohol screening to be conducted at the time of medical treatment. An employee's failure to request post-accident drug/alcohol screening at the time of medical treatment will be considered a violation of this policy.

### **III. Random Testing**

- A. The Company reserves the right to subject up to 100% of The Company's total workforce to unannounced random urine drug screens annually, spread throughout the calendar year. Since the selection process will be completely random, some employees may be tested more than once in a given year while others may go untested under this program. All employees falling under Department of Transportation regulations will be placed in a separate random pool, in addition to the testing required by this policy (see below).



- B. Each year up to 50% of the CDL drivers will be tested for drug use on an unannounced basis spread throughout the calendar year. Since the selection process will be completely random, some employees may be tested more than once in a given year while others may go untested under this program.
- C. CDL drivers and employees in Safety Sensitive Positions will be tested for alcohol in accordance with the Federal Omnibus Transportation Employee Testing Act (OTETA) of 1991, on an unannounced basis spread throughout the calendar year. Since the selection process will be completely random, some employees may be tested more than once in any given year while others may go untested under this program.
- D. In accordance with the state's Drug-Free Safety Program (ORC 153.03), up to 5% of all employees working on an Ohio state-funded job site will be tested for drug use on an unannounced basis. Since the selection process will be completely random, some employees may be tested more than once per state-funded job site while others may go untested under this program.
- E. A non-Company testing organization will utilize objective computer software that ensures a truly random selection process in which all employees in the testing pool have an equal statistical likelihood of being selected for testing. The Company forwards a list of names of employees to be tested to the designated agency representative. The random testing list will be maintained in the strictest confidence as outlined in this policy.
- F. Employees can be added or deleted from the random testing pool at any time during the testing year, but these changes must be made before the selection process in which the changes are to be effective.
- G. When the next random draw is conducted, all employees are again included in the pool with an equal chance of selection, regardless of whether an employee was previously selected.
- H. An employee's failure to comply with the request for a specimen (as outlined in this policy) for random testing will result in immediate termination of employment.
- I. An employee's refusal to test or failure to cooperate with the testing process in any way that would prevent completion of the test (i.e., tampering with specimen, etc.) will be considered as a positive test.
- J. Availability of Employee to be tested:
  - 1. Testing can be ordered at any time during the employee's work shift;
  - 2. If the employee is unavailable (illness, vacation, etc.) when the random testing roster is received by the authorized agent, the employee must be tested prior to the next random selection drawing.
  - 3. If the employee selected for random drug testing is off for more than 60 days (illness, vacation, layoff, etc.), a re-employment drug test is required before the employee can return to work.

#### **IV. Follow-Up Testing After Return to Work Following Assessment and/or Treatment**

- A. Every employee who has returned to duty after receiving treatment/assistance for substance abuse will be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional in charge of the employee's treatment/assistance.
- B. There will be a minimum of four (4) unannounced follow-up tests during the first 12 months after the employee returns to duty. At the direction of the Substance Abuse Professional (SAP) follow-up testing may be ordered for up to 60 months.
- C. The first follow-up test will serve as the employee's "return-to-duty" test following a voluntarily requested leave of absence to address substance abuse treatment, and must occur before the employee may resume work activities.
- D. Any such employee who refuses to participate in a return-to-duty test or an after-care-testing program (testing as ordered by the substance abuse professional in charge of the employee's treatment/assistance), or testing positive in these situations will be terminated.
- E. The employee will be responsible for paying for all follow-up tests as ordered by the substance abuse professional in charge of the employee's treatment/assistance.

#### **V. Confidentiality**

- A. Specimens will be collected in accordance with specific procedures, which insure privacy, confidentiality, and integrity of test results.
- B. The Designated Employer Representative (DER) will be notified of test results in a confidential manner.
- C. All records of the drug and alcohol testing program are strictly confidential, and access to records will be strictly controlled. Substance Abuse testing records will be kept in a secure location under lock and key, and will not be part of the individual's personnel file.
- D. Test results will not be released to other parties without the signed consent of the employee, unless required by law (i.e., DOT Enforcement Officer).

- E. Only those administrators or supervisors with a business “need-to-know” will be informed of the test results and, if applicable, any disciplinary action taken.
- F. The Company **does** have the obligation to report positive alcohol and/or drug screens to the appropriate licensing/certifying boards as required by state and/or federal statute.

**VI. Substances Tested For & Methods of Testing**

- A. Systems presence testing is the procedure that is used to identify the presence of the following controlled substances or alcohol that may be present:

<b>Code</b>	<b>Drug</b>	<b>Screen</b>	<b>Confirmation</b>
AMP	Amphetamines	500 ng/ml	500 ng/ml
COC	Cocaine Metabolite	150 ng/ml	150 ng/ml
OPI	Opioids	2000 ng/ml	2000 ng/ml
6-AM	6-Acetylmorphine	10 ng/ml	10 ng/ml
PCP	Phencyclidine	25 ng/ml	25 ng/ml
THC	Marijuana Metabolite	50 ng/ml	15 ng/ml
MDMA	Ecstasy	500 ng/ml	500 ng/ml

For each of the tested drugs there is an initial test used to screen the urine specimen. If the initial screen is positive (at or higher than a cut-off level established by the US Department of Health & Human Services (DHHS), a second or confirmatory test is conducted. This is a different testing method which is considered 100% scientifically accurate. Detection thresholds (or cut-off levels) are standards that have been established by the DHHS for each of the above drugs after years of research. These levels will be used to interpret all drug screens/tests, whether for a pre-employment examination, new hire, reasonable suspicion test, post- accident test, random test, or follow-up test.

- B. Breath alcohol testing will be conducted by a testing contractor that uses only certified equipment and personnel. A breath alcohol concentration exceeding .02 will be considered a verified positive result. In the event of an accident where an employee has a “whole blood” alcohol drawn at a medical treatment facility, a result equal to or greater than .02 shall be considered to be a verified positive result. An evidentiary Breath Test (EBT) is used to confirm any initial positive test result. The Company also expressly reserves the right to add or delete substances on the list above, especially if mandated by changes in existing Federal, state or local regulations or legislation, or to meet a specific customer’s testing criteria.
- C. In accordance with the substance testing guidelines established by Ohio Administrative Code (OAC) 4123-17-58 employers participating in the State of Ohio Drug-Free Safety Program or another comparable program shall include alcohol and other drug testing which conforms to the federal testing model promulgated by the United States Department of Health and Human Services. Therefore, any specimen collection method changes implemented by the US Department of Health and Human Services may be adopted by the Ohio Bureau of Workers Compensation and implemented accordingly by employers who are participating in the State of Ohio’s drug-Free workplace program. Any such changes will be announced to all employees via the distribution of a written policy addendum describing those changes, and a written acknowledgment of receipt of that addendum will be collected from each employee and maintained in that employee’s personnel file.

**VII. Sample Collection & Criteria, Testing & Results**

- A. The Company’s Designated Employee Representative (DER) will be responsible for coordinating and implementing the administration of the Drug-Free Safety Program Policy and shall comply with the terms of this policy, as well as all applicable federal and state laws and regulations.
- B. All specimens for screening shall be collected in compliance with DHHS guidelines, and specimens that have undergone preliminary screening and have been determined to be non-negative (positive) will be forwarded to a federal laboratory to undergo confirmatory testing.
- C. All confirmatory drug testing will be performed at a U.S. Department of Health & Human Services/Substance Abuse & Mental Health Services Administration (DHHS/SAMHSA)-certified laboratory and shall be forwarded to a licensed physician with knowledge of substance abuse disorders a “Medical Review Officer” (MRO) for final interpretation, certification or verification.

- D. The MRO shall be chosen by the Company's Designated Employer Representative (DER) and shall only report the final tests results to the DER. The final test results shall be reported in writing and in a confidential manner and shall be limited only to any illicit, or otherwise prohibited, drugs for which the applicant or employee has received a Confirmed Positive Test Result or a Negative Test Result.
- E. For New-Hires, prior to the collection of any sample, the employee will be required to read and sign a Drug Testing Consent Form and Chain of Custody Form. All signatures to these consent forms shall be voluntary.
- F. Strict privacy will be provided during the specimen collection. Any observation of Applicants/Employees providing specimens shall be in strict compliance with Department of Transportation (DOT) published guidelines.
- G. Samples shall be collected using the "split-sample" method to provide a second separate specimen for independent testing in the event an Applicant/Employee requests a retest.
- H. If the urine sample is quantitatively acceptable, the containers holding the samples will be sealed with security tape. The Applicant/Employee will initial and date the sealing tape on each container. Each sample will then be placed in a sealed package for delivery to the appropriate testing facility. The third-party service supplier shall ensure that the sample is maintained and labeled in a proper manner for the purposes of establishing a chain of custody.
- I. The collection agent will be required to send the sample to a DHHS-certified laboratory for testing. All test results will be forwarded to the MRO. The MRO (or designee) will inform The Company's DER of Negative Test Results within 24 hours of receipt of the Negative Test Result. All Positive Test Results must be verified by a federally certified laboratory utilizing gas chromatography/mass spectrometry.
- J. For all Verified Positive Results, the MRO will contact the Applicant/Employee directly within the legally applicable time limitation, which may vary by state, from the MRO's receipt of a Verified Positive Test Result. The MRO shall inform the Applicant/Employee in writing of their test result as well as, the consequences and options available to the Applicant/Employee, including but not limited to information related to the Applicant/Employee's right to request a retest of the original sample. Applicant/Employees who receive notification of a Verified Positive Test Result will then have 72 hours from the receipt of such written notification to explain or contest the Verified Positive Test Result and/or request a retest. The MRO will also provide the Applicant/Employee with a copy of any Verified Positive Result.
- K. Under federal guidelines, the MRO is prohibited from verifying a test negative based on information that a physician recommended that the employee use a drug listed in Schedule I of the Controlled Substances Act. (e.g., under a state law that purports to authorize such recommendations, such as the "medical marijuana" laws that some states have adopted.)
- L. All Applicant/Employees, with a Verified Positive Result, have the right to request a retest at the Applicant/Employee's expense. All Re-tests shall be performed on the untested portion of the split-sample of their original specimen. Only one Re-test shall be performed. A DHHS certified laboratory shall perform the Re-test. The Applicant/Employee must request a Re-test in writing within 72 hours from receiving notice of a Verified Positive Result. In the Applicant/Employee's request for a Re-test the Applicant/Employee must state that he/she is consenting to the release of the sample. If the Re-test does not show a Verified Positive Result, The Company shall pay the cost of the Re-test.
- M. Applicant/Employees shall have the opportunity to provide to the MRO information related to the use of prescription or nonprescription medications or other relevant medical information. If the information regarding the explanation of the Positive Test Result provided to the MRO by an Applicant/Employee is, based upon the MRO's professional medical opinion, unsubstantiated or irrelevant, and the Applicant/Employee does not request a retest within 72 hours from receiving notice of the Verified Positive Result, the MRO will report a Confirmed Positive Result to DER. A Negative Test Result shall be reported to DER if the Applicant/Employee provides medical information that is determined by the MRO to be valid, substantiated or relevant based on the MRO's professional medical opinion and/or the Positive Test Result was not caused by an Illegal Drug.
- N. Negative Test Results will be maintained by or forwarded directly to The Company's DER. Confirmed Positive Results will be sent to the DER only and shall be marked as "Confidential Information". Upon receipt of any test result from the third-party service supplier, the DER will promptly notify the Applicant/Employee of its receipt of the test results. The Company shall rely on the test results and shall take appropriate action based on such results, in accordance with this policy.

### **VIII. Counseling & Rehabilitation**

- A. The Company's primary goals are safety, prevention and rehabilitation, not punishment. Employees who have a substance abuse problem and who voluntarily inform the Company of their problem before they show positive will be granted unpaid leave to participate in a rehabilitation program.
  - 1. Employees who voluntarily inform the Company that he/she has a substance abuse problem—before he/she tests positive for drug or alcohol use – shall not be subject to disciplinary action as a result of that voluntary disclosure, although there may still be natural consequences (i.e. mandatory time off pending a negative drug screen, treatment costs, etc...) resulting from that disclosure.
  - 2. Instead of leave without pay, employees who participate in a rehabilitation program may use accrued vacation or personal days to compensate them for some or all of the time they are in rehabilitation.
  - 3. Such employees shall be retained under a "Return to Duty Agreement" for up to one year, as long as the employee successfully follows the treatment program. If the employee fails to successfully follow the program, they will face disciplinary action consistent with a first violation of this policy.
  - 4. The rights granted in this section shall be available to an employee only once during a three-year period, and shall not apply to an employee who has refused a drug test.
  - 5. Failure to successfully complete this rehabilitation program, or any further violation of this policy following completion of this rehabilitation program, will be considered a first offense, subjecting the employee to disciplinary action up to and including possible termination of employment.
- B. Employees participating in an inpatient substance abuse program of rehabilitation will be required to enter the program within 48 hours or a time period to be determined by Management or the Company's DER. Employees treated on an outpatient basis will be expected to perform the regular duties of their job except as modified by Company management for safety consideration.
- C. Return-to work and/or possible reassignment will be dependent upon the employee's ability to safely resume normal or modified duties as determined by the employee's substance abuse professional, The Company's DER and Company Management.
- D. The Company will be responsible for the cost of the employee's initial substance abuse assessment.
- E. Employees will be responsible for all other costs associated with their substance abuse treatment rehabilitation process, including the costs of all follow-up testing.
- F. Employees who test positive for alcohol or drugs on the job, or who otherwise violate this policy, will be subject to disciplinary action up to and including termination of employment, even for a first offense. There is no guarantee, and there should be no expectation, that employees in violation of this policy will automatically be offered a "Last Chance Agreement" or "Return to Work Agreement."

### **IX. Compliance & Consent**

- A. Compliance with the terms of this Policy and written consent to undergo testing as described herein are conditions of continued employment with The Company. Any employee or applicant may refuse to undergo drug and/or alcohol testing but such refusal is grounds for termination of employment or denial of employment. Similarly, other conditions of employment include:
  - 1. Consent to inspection of Company property and personal property and personal property located on Company premises.
  - 2. Consent to be driven to a medical facility of the Company's choice if Company management, or their designated representative, has reasonable cause to believe the employee may be under the influence of alcohol or prohibited drugs.
  - 3. Completion of release forms for drug testing and medication history prior to testing.
  - 4. Consent to participate in and complete a prescribed program of alcohol and/or drug rehabilitation if referred by the Company.
  - 5. Successful completion of any aftercare program recommended by a substance abuse professional following completion of a rehabilitation program.
  - 6. Failure to comply with the terms and conditions of these policies may result in disciplinary action up to and including termination of employment, even for a first offense.

## **X. Communication/Notification/Education**

- A. Notices will be posted in normal posting places advising all applicants and employees of the Company's policy to provide a drug and alcohol-free workplace.
- B. Application forms will contain a statement regarding compliance with this policy as a condition of employment and will inform all applicants of the requirement to take and pass a drug test.

### **C. Employee Education:**

All existing employees (regardless of status) and all "New Hires" are required to attend an initial one-hour (minimum) informational and skill-building session.

Under **O.R.C. 153.03**, any worker who has been or will be assigned to conduct work on any state of Ohio public improvement project must complete a minimum of one hour of DFSP Employee education **before** he/she may begin performing any work responsibilities on that public improvement project.

This session will include, but not be limited to:

- A copy of the Company's policy and acknowledgement form, showing receipt of policy;
- How and why substance use is a workplace problem;
- Effects, signs & symptoms of use;
- Effects of commonly used drugs in the workplace;
- How to seek help & what type of help (i.e., getting a referral for employee assistance);
- The importance of recognizing a potential substance abuse problem the employee may have;
- Supervisory Personnel's direct role and responsibilities in the Company's DFSP program;
- Question & Answer session.

### **D. Supervisor Education:**

All new supervisors (including newly-hired and newly-promoted personnel) will receive a minimum of two hours (in addition to the one-hour employee session) of skill-building training in the recognition of substance problems that may endanger the employee or others, or that may violate The Company's substance abuse policy.

Under **O.R.C. 153.03**, any supervisor who has been or will be assigned to provide supervision of work performed on any state of Ohio public improvement project must complete a minimum of two hours of DFSP education **before** he/she may supervise any work performed on that public improvement project.

This session will include, but not be limited to:

- The role of the supervisor in maintaining a safe work environment
- How to recognize indicators of employee impairment, particularly as it relates to the misuse of alcohol or other substances
- Utilization of the Six-Step Constructive Confrontation Process for Reasonable Suspicion testing
- How to make referrals for help as outlined in The Company's policy.
- Expectations for confidentiality and other potential liability issues

This training will be administered by a "Qualified Person" (i.e., SAP, LICDC, OCPs, etc...).

Each supervisor must also complete Accident-Analysis training within 30 days of the start of the program year or within 60 days of the employee becoming a supervisor. This one-time requirement is in addition to the drug-free supervisor training. This training is available on the BWC's website free of charge, or a qualified vendor may present BWC-required class topics for a fee.

## **XI. Safety Elements of the Drug Free Safety Program:**

1. Accident Analysis Report (DFSP-1) focusing on identifying the primary causal factors of reportable accidents, as well as appropriate and necessary corrective actions that may be taken to prevent future occurrences of similar accidents. A DFSP-1 report must be submitted to the BWC within 30 days of any reportable accident.
2. Safety Management Self-Assessment (SH-26)- This self-administered annual safety system evaluation tool is used to identify strengths and weaknesses in the current safety processes of The Company and to determine which areas to focus efforts on improving.
3. Safety Action Plan (DFSP-5) – This document is designed to identify specific safety enhancements that the employer intends to implement during the subsequent program year based upon its internal evaluation and responses identified as safety areas which are in need of improvement as determined by the employer's completion of the annual Safety Management Self-Assessment survey.

**DIPIETRO EXCAVATING, INC**  
**EMPLOYEE UNDERSTANDING, AUTHORIZATION &**  
**CONSENT REGARDING ALCOHOL AND DRUG POLICY**

By signing below, I hereby agree to the following:

I hereby consent to submit to drug testing and/or alcohol testing, to determine if I have violated any Federal or State regulations or any or DiPietro Excavating's Policy regarding the use or abuse of alcohol, illegal drugs or controlled substances (including the misuse of legal substances).

I understand that the refusal to submit to, or interference with, such testing, or providing false information in connection with such testing, will be grounds for termination of employment with DiPietro Excavating. I further understand that this testing is being conducted pursuant to DiPietro Excavating's Alcohol / Drug-Free Safety Policy.

I authorize the release of all test results obtained during substance testing procedure(s) to DiPietro Excavating and its designated Medical Review Officer and Substance Abuse Professional(s).

I hereby and herewith release DiPietro Excavating, its employees, agents and contractors from any and all liability whatsoever arising from the request for testing, from the actual testing procedures, and from decisions made concerning my application for or continuation of employment based on the results of the analysis.

This Policy has been explained to me, and I have had an opportunity to ask questions, to receive any requested further information about this Policy, and agree to comply with the procedures and provisions contained within this Policy or otherwise communicated to me regarding such matters for the duration of my employment with DiPietro Excavating, Inc.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee Printed Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Printed Name

**DIPIETRO EXCAVATING, INC**

**ACKNOWLEDGEMENT OF RECEIPT OF  
ALCOHOL/DRUG-FREE SAFETY POLICY**

By signing this form, I acknowledge that I have received a copy of DiPietro Excavating's Alcohol/Drug-Free Safety Policy, have had the opportunity to discuss the Policy and have had pertinent questions answered, and understand all the provisions in the Policy. Although the Policy received reflects the Company's current Policy regarding substance use, I understand that it may be necessary to make changes from time to time to best serve the needs of the organization. However, any changes deemed necessary will be made in writing, and the modified Policy will be shared with the employees.

By my signature below, I acknowledge that it is my obligation to read, understand, and comply with the procedures and provisions contained within this Policy or otherwise communicated to me regarding such matters for the duration of my employment with DiPietro Excavating, Inc.

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

Employee Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Witness Signature \_\_\_\_\_

Witness Printed Name \_\_\_\_\_

Date \_\_\_\_\_

**DIPIETRO EXCAVATING, INC**  
**EMERGENCY CONTACT FORM**

**Employee Name:** \_\_\_\_\_

In the event of a medical emergency I am authorizing DiPietro Excavating, Inc to contact the following individual:

**Primary Emergency Contact**

**Contact Name:** \_\_\_\_\_

**Relationship to Employee:** \_\_\_\_\_

**Main Telephone:** \_\_\_\_\_

**Optional Telephone:** \_\_\_\_\_

**Employee Signature:** \_\_\_\_\_

**Employee Printed Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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Additional Information (Disclosure of this information is **ENTIRELY VOLUNTARY**)

**Medical Conditions or Allergies (Food, Medication, Insects, Etc.):**

\_\_\_\_\_

\_\_\_\_\_