

A RESOLUTION
OF
CALN TOWNSHIP
CHESTER COUNTY
PENNSYLVANIA

RESOLUTION #2020-43

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF CALN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA AMENDING THE PERSONNEL AND ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL OF CALN TOWNSHIP TO INCLUDE UPDATED POLICIES REGARDING DRUG TESTING FOR COMMERCIAL AND NONCOMMERCIAL DRIVERS OF TOWNSHIP OWNED EQUIPMENT

WHEREAS, Caln Township Board of Commissioners originally adopted a Personnel and Administrative Policies and Procedures Manual in July of 2001 to establish written rules of procedure amongst all non-uniform staff of the Township, and

WHEREAS, as it is the prerogative of the Board of Commissioners to amend or change the policies from time to time as necessary for proper organization and management of the Township, and

WHEREAS, Caln Township has decided to join the PSATS Drug Testing Program, which requires that the Township adhere to the policies of the mentioned program for administration of the employee drug testing program, and

WHEREAS, attached to this Resolution are the proposed policies that must be adopted by the Board of Commissioners and duly introduced to the Personnel and Administrative Policies and Procedures Manual, and

WHEREAS, the attached policies will replace Section 7 of the existing Personnel and Administrative Policies and Procedures Manual that was most recently updated in May of 2015.

NOW THEREFORE LET IT BE RESOLVED, THAT THE BOARD OF COMMISSIONERS OF CALN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA AMEND THE PERSONNEL AND ADMINISTRATIVE POLICIES AND PROCEDURES MANUAL OF CALN TOWNSHIP TO INCLUDE UPDATED POLICIES REGARDING DRUG TESTING FOR COMMERCIAL AND NONCOMMERCIAL DRIVERS OF TOWNSHIP OWNED EQUIPMENT

Duly Adopted by the Governing Body of Caln Township this 13, day of August 2020.

Resolution 2020-43 Amending the Personnel & Administrative
Policies & Procedures Manual to include updated Policies
Regarding Drug testing for Commercial & Non-Commercial
Drivers of Township Owned Equipment

ATTEST:

ON BEHALF OF
CALN TOWNSHIP
BOARD OF COMMISSIONERS

Kristen Denne
Township Secretary

Paul Mullin, President

RESOLUTION ACTION RECORD

Resolution Type: _____ No. _____

Pertaining to: _____

Duly adopted at a meeting of the Board of Commissioners held: _____

Motion by: _____ Seconded by: _____

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
_____ President: Mr. Mullin	_____	_____	_____	_____
_____ Vice President: Ms. Kennedy	_____	_____	_____	_____
_____ Commissioner Young	_____	_____	_____	_____
_____ Commissioner Tindaro	_____	_____	_____	_____
_____ Commissioner Evans	_____	_____	_____	_____

This Policy is established by CALN TOWNSHIP adopted and effective AUGUST 14, 2020 and shall continue in effect until amended or terminated by the employer. If amended, every covered employee shall receive a copy of the new policy.

I. PURPOSE

- A. To comply with the state and federal laws and regulations concerning commercial driver's licensed (CDL) employees insofar as they apply to this employer.
- B. To conform the employment policies of this employer with the requirements of said laws and regulations.

II. APPLICATION

This Policy shall apply only to the category of employees and applicants for employment who are required to have a CDL license to operate employer-owned, leased or borrowed vehicles or equipment requiring CDL licensure.

III. FEDERAL REGULATIONS

The regulations of the U.S. Federal Motor Carrier Safety Administration (FMCSA) and the Pennsylvania Department of Transportation are hereby adopted by reference insofar as they apply to this employer, its employees and vehicles, and this Policy.

IV. POLICY ESTABLISHED

Employees covered by this policy are prohibited from engaging in the following conduct:

- 1. Reporting for or remaining on duty to perform safety-sensitive functions while having a breath alcohol level of 0.04 or greater;
- 2. Using alcohol while performing safety-sensitive functions;
- 3. Performing safety-sensitive functions within four hours after using alcohol;
- 4. Using alcohol any time after an accident until either a post-accident alcohol test is taken or eight hours have elapsed, whichever occurs first;
- 5. Refusing to submit to an alcohol or drug test when required to do so;
- 6. Reporting for or remaining on duty requiring the performance of safety-sensitive functions when the driver uses any drug or substance identified in federal regulations at 21 CFR 1308.11 Schedule I; and,
- 7. Reporting for or remaining on duty to perform sensitive functions when the driver uses any non-Schedule I drug or substance that is identified in the other Schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

Safety-sensitive functions are any of the broad array of activities related to operating, loading, servicing, or maintaining commercial motor vehicles.

Violation of these rules will subject the employee to discipline and/or dismissal pursuant to the provisions of Section VII of this policy, subject to any applicable provisions and procedures of the collective bargaining agreement in effect, if any.

Performing a safety-sensitive function means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Safety-sensitive function, as currently defined by 49 CFR Part 382.107, means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

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

Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription, and prescribing physician. Employees are required to file with the employer a statement on a form provided by the employer (and completed by the doctor who issued such medications) stating whether use of any therapeutic drug will or will not impair the employee's ability to safely operate any vehicle or equipment. The term "illegal drugs" shall include drugs for which the employee does not have a valid prescription, as well as cocaine, phencyclidine (PCP), marijuana, opiates (including heroin), amphetamines, and such other illegal drugs (such as Ecstasy and methamphetamines) as may be identified by federal regulations from time to time.

V. TESTS ESTABLISHED

The following drug and alcohol test procedures shall be applicable to all employees and applicants for employment to whom this Policy applies. Modern and confidential testing procedures shall be used which will protect the rights of the driver and the integrity of the testing process, safeguard the validity of the test results, and ensure that results are attributed to the correct driver.

- 1) **Pre-Employment**: All applicants for employment must receive a negative result on a pre-employment drug test prior to them operating any of the employer's CDL vehicles. Any applicant testing positive shall not be considered for employment

- 2) **Random:** The employer will implement a random testing procedure through the PSATS CDL Program meeting the current requirements of the federal CDL drug and alcohol testing regulations. The procedure shall include employer-paid tests of covered employees on a random basis and shall be conducted without any advance notice.
- 3) **Probable Cause:** Any employee giving probable cause to believe that he or she has engaged in prohibited conduct as established in Section IV above shall be subjected to employer-paid testing immediately upon confirmation of such probable cause by any of the employer's personnel who have successfully completed the federally-required probable cause training. Probable cause shall be limited to behavior or conduct observed at the workplace or in route to a workplace during working hours. Observation and confirmation shall be done by personnel who have received the required training as mandated by federal regulations at 49 CFR 382.603. Trained personnel making probable cause observations shall make and file with the employer a written report on a form provided by the employer of the attendant circumstances. Such reports shall be kept confidential and a copy permanently retained in the employee's driver qualification file.
- 4) **Post-accident:** Any employee involved in an accident as defined herein shall be tested at the employer's expense for drugs as soon after an accident occurs as is possible, but not later than thirty-two (32) hours, and for alcohol as soon after an accident as possible, but not later than eight (8) hours. Municipal employers wanting to implement a post-accident testing policy that is broader than that testing required for CDL employees can only do so through a non-CDL employee testing policy. As for the post-accident testing required of CDL employees, the following applies:
 - i) Testing should not take precedence over needed medical treatment or other needed emergency measures;
 - ii) If for any reason the tests cannot be obtained within the times provided, the tests shall not be administered. However, refusal to submit to a test or interfering with the successful completion of such a test shall be deemed a positive test result in accordance with Section VI below;
 - iii) No employee shall consume alcohol or illegal drugs between the time of the accident and the test administration;
 - i. **POST-ACCIDENT DRUG AND ALCOHOL TESTING:** As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, each employer shall perform a drug test and alcohol test on its surviving drivers when either of the following conditions occur:
 1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 2. Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - b. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be

transported away from the scene by a tow truck or other motor vehicle.

- ii. POST-ACCIDENT DRUG TESTING: As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, each employer shall perform a drug test on its surviving drivers when the following conditions occur:
 1. Who receives a citation more than eight (8) hours but less than thirty-two (32) hours after an accident under State or local law for a moving traffic violation arising from the accident, if the accident involved:
 - a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - c. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

VI. TEST STANDARDS

No driver shall refuse to submit to a pre-employment controlled substance test required under 49 CFR 382.301, a post-accident alcohol or controlled substance test required under 49 CFR 382.303, a random alcohol or controlled substances test required under 49 CFR 382.305, a reasonable suspicion alcohol or controlled substance test required under 49 CFR 382.307, a return-to-duty alcohol or controlled substances test required under 49 CFR 382.309, or a follow-up alcohol or controlled substance test required under 49 CFR 382.311. This employer shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

Any refusal or failure by the CDL Employee or Applicant to submit to any test required by this Policy or the applicable law and regulations, shall be deemed to be a positive result. Applicants will not be hired, and employees will be subject to the disciplinary provisions of this policy, as a result of a positive test. Refusal to submit to a test under this Policy shall include any act or omission which prevents, thwarts, or frustrates the objectives of this Policy, including without limitation the following: (1) refusal to submit in a timely fashion to testing; (2) refusal or failure by the employee or applicant to complete, sign, or initial the required testing forms; (3) refusal or failure without good cause to provide any sample or provide an adequate sample for testing; and/or (4) failure or refusal to otherwise cooperate with the testing process in a way that prevents the completion of any required test.

All required tests shall be completed using federal testing chain-of-custody forms that are designed to protect the rights of the employee and the integrity of the testing process and safeguard the validity of the test results.

- A. Alcohol Testing. Alcohol testing shall be conducted using a federally-approved breathalyzer operated by a certified breath alcohol technician. Any employee receiving an alcohol test result of greater than or equal to 0.02% breath alcohol level, but less than 0.04% breath alcohol level, shall be immediately removed from safety-sensitive duties for 24 hours. Any test result equal to or greater than 0.04% breath alcohol level shall be considered a positive test and cause the employee to be removed from safety-sensitive functions and subject to the disciplinary provisions of Section VII.

- B. Drug Testing. Drug testing shall be conducted by urine sample that shall be analyzed at a federally-approved testing facility. Any test result confirming the presence of illegal drugs shall be considered a positive test and cause the employee to be removed from safety-sensitive functions and subject to the disciplinary provisions of Section VII. Any employee testing positive for illegal drugs may request that the split sample of the same specimen be retested, at the employee's expense. Employees must speak with the Medical Review Officer about such request.
- C. Test Transportation. By its own authority, this employer will provide or arrange transportation to and/or from the testing site, job site or the employer's facilities, as appropriate, under the following circumstances:
- ii. All probable cause tests;
 - iii. All alcohol tests with results of greater than or equal to 0.02% breath alcohol level; or,
 - iv. If the employer has reason to believe that the employee has engaged in prohibited conduct regardless of whether the employee would be required to submit to a probable cause test.

VII. POSITIVE TESTS & RETURN-TO-CDL DUTY

The consequence for any employee who has engaged in prohibited conduct is identified below:

RETURN-TO-DUTY OFFERED ONCE

An employee who tests positive for a drug and/or alcohol test must immediately be removed from safety-sensitive functions. This employee will be allowed to return-to-duty if this is the employee's first positive test and the employee, prior to returning to CDL duty:

1. *Consults with a drug and alcohol abuse professional at the employee's expense within __ weeks of notification of a positive test; and*
2. *Completes all recommended treatment at the employee's expense; and*
3. *Completes all necessary drug and/or alcohol tests at the employee's expense and obtain negative results.*

Any subsequent positive result to a drug and/or alcohol test by this same employee will subject that employee to immediate dismissal.

VIII. FOLLOW-UP TESTING

If an employee who tests positive for a drug and/or alcohol test is offered the chance to return-to-duty, that employee (1) shall be in a probationary employment period until termination of any required counseling and (2) shall be subject to and pay for any and all required counseling, the return-to-duty test, and all unannounced follow-up tests required by the Substance Abuse Professional following return to CDL duty.

Regarding follow-up testing, the employee shall, at a minimum, be subject to at least six unannounced follow-up tests in the first twelve months after the employee's negative return-to-duty

test and can be kept under required counseling by the Substance Abuse Professional for up to five years. A positive result on any test administered during this probationary period, including any random tests, or failure to abide by any required counseling, automatically subjects the employee to immediate dismissal.

IX. TEST RESULTS

Employees will be notified of their positive test results. Test results shall be retained by the Medical Review Officer responsible for analyzing the employee's test results. Said results shall be held in strictest confidence and shall be accessible only to the employee, the employer, and such other persons authorized by law and shall not be released to any other person except with the written consent of the employee. The results of tests made known to the employer may be released to future employers in accordance with the federal regulations.

X. CONFIDENTIALITY OF DOCUMENTS

All files, documents, and records of the employer related to the application of this Policy to individual employees shall be deemed and kept confidential by the employer.

XI. RECORDKEEPING

Records relating to the administration and results of the employer's drug and alcohol testing program for its CDL drivers will be maintained in the manner provided in regulations.

All drug and alcohol tests will be conducted by licensed facilities and analyzed by a Medical Review Officer (MRO). The PSATS CDL Program's MRO is a licensed doctor of medicine with knowledge of drug and alcohol abuse disorders and is employed by this consortium which the employer has joined to conduct alcohol and drug testing in accordance with the federal regulations. The MRO shall be the sole custodian of any individual's test results.

The employer will also maintain an annual calendar year summary of the records related to the administration and results of the testing program, which is annually provided by the PSATS CDL Program upon each employer's membership renewal.

XII. ACCESS TO TEST RESULTS AND FINDINGS

No person other than the employer's designated contact person may obtain the individual test results retained by the Medical Review Officer, and no Medical Review Officer shall release the individual test results of any employee to any person, without first obtaining written authorization from the tested individual, unless as otherwise required by law.

XIII. EMPLOYEE ASSISTANCE PROGRAM

The employer shall establish the following:

- A. Employees who test positive for drugs or alcohol shall be personally responsible for obtaining and paying for a Substance Abuse Professional for consultation and treatment. Employees needing a Substance Abuse Professional can contact American Substance Abuse Professionals, Inc at (888) 792-2727 to arrange for the necessary counseling with an approved Substance Abuse Professional available in the area.
- B. Caln Township also offers Employee Assistance Program through Health Advocate and their number is 877-240-6863.

- C. Owing to the negative effects of drug use and alcohol misuse on an individual's health, work, and personal life, this employer encourages its employees wanting additional educational and training material on drug and alcohol problems to contact the County Commissioner's office of drug and alcohol abuse regarding any services provided.
- D. Further, any covered employee exhibiting an indication of a drug or alcohol problem will be asked to seek counseling as a condition of continued employment. Any covered employee exhibiting an indication of prohibited conduct shall be investigated to determine if a probable cause test is warranted.
- E. An annual one-hour training and educational program for covered employees that shall include a review of this personnel policy and other pertinent matters.
- F. Training in drug and alcohol detection and related matters for all supervisory personnel of this employer's CDL employees. This training may be satisfied by attendance at a PSATS CDL Program probable cause workshop.

XIV. CDL INFORMATION CONTACT

The following person is designated by this employer for the purpose of providing information to employees concerning the federal laws and regulations governing the testing of CDL employees and for implementing and monitoring the employer's compliance with the federal testing program:

James Wheeler, Manager
PSATS CDL Program
4855 Woodland Drive
Enola, PA, 17025
(E): cdl@psats.org
(P): 800-235-75759
(I): cdl.psats.org

XV. MISCELLANEOUS

- A. This Policy shall be implemented with the constitutional and legal rights of the employees subjected to it.
- B. This Policy shall not be deemed to be a covenant of employment or other form of covenant or contract between the employer and any employee.
- C. Any collective bargaining agreement entered by the employer subsequent to the adoption of this Policy shall conform to the provisions of this Policy.
- D. Any agreement for the sharing, leasing, lending, or other transfer of CDL employees between the employer and any other municipality or private enterprise shall address in writing the status of said employees as to whether they are employees of the receiving entity during the period of the transfer.
- E. Any contract for services involving CDL employees shall expressly state whether the contracting party is an independent contractor or employee of the employer. Any contractor must regularly, during the life of any contract, provide to the employer the appropriate documents showing their continued compliance with the federal CDL act and regulations.
- F. The definition of terms shall be as contained in the relevant federal and state regulations.
- G. A copy of this Policy shall be delivered to every employee and applicant for employment who is subject to it and to all supervisory personnel. All employees

shall sign an acknowledgment of receipt of the Policy which shall be permanently retained in the employee's personnel file.

- H. A copy of the controlling law and federal regulations shall be maintained in the employer's offices and shall be accessible to employees, upon request.
- I. This Policy will be limited by any applicable federal or state law, or by municipal ordinance or any applicable collective bargaining agreement which does not contravene such laws.
- J. Employees agree to waive any liability against the employer arising out of the employer's administration of this Policy and its administration of the program established pursuant to the federal law or regulations regarding the employer's responsibility for CDL drivers.

This Policy is hereby adopted on August 13, 2020 by Caln Township.

The Policy shall be effective beginning August 14, 2020 and shall continue in effect until amended or terminated by this employer.

I. APPLICATION/COVERED EMPLOYEES

This Policy shall apply only to those employees and applicants for employment who are or will likely be assigned to regularly operate employer-owned, leased, or borrowed motor vehicles and/or equipment, or who are employed in other safety-sensitive positions.

II. FEDERAL REGULATIONS

The regulations of the Federal Motor Carrier Safety Administration (FMCSA) at 49 CFR Part 382 are hereby adopted by reference insofar as they apply to this Policy.

III. POLICY ESTABLISHED

Employees covered by this policy shall not use, sell, possess, or receive alcohol or illegal drugs, or distribute or sell prescription drugs, including medical marijuana, or otherwise engage in any prohibited conduct as defined by FMCSA regulations, while on duty. Violation of these regulations will subject the employee to discipline and/or dismissal pursuant to the provisions of Section VI of this Policy, subject to any applicable provisions and procedures of the collective bargaining agreement in effect, if any.

If used while on-duty, prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription, and physician. Employees are required to notify their designated supervisory personnel if they are taking a prescription drug and shall file with the employer a statement on a form provided by the employer from the doctor who issued such prescription stating whether such drug will or will not impair the employee's ability to operate any vehicle or equipment. The term "illegal drugs" shall include: drugs for which the employee does not have a valid prescription, cocaine, phencyclidine (PCP), marijuana, opiates (including Heroin), amphetamines, methamphetamines, "Ecstasy", and such other illegal drugs as may be identified by the FMCSA from time to time.

IV. TESTS ESTABLISHED

The following drug and alcohol test procedures shall be applicable to all employees and applicants for employment to whom this Policy applies *{NOTE: choose all that apply}*:

- A. Pre-Employment: All applicants for employment shall be tested for drugs prior to being made an offer of employment by this employer. Any applicant testing positive shall not be considered for employment.
- B. Probable Cause: Any employee giving probable cause to believe that he or she is in violation of the Policy established in Section III above shall be subjected to employer-paid testing immediately upon observation of such probable cause by any trained employee. Probable cause shall be limited to behavior or conduct observed at the workplace or en-route to a workplace during working hours, and shall include, but not be limited to:
1. Direct observation of drug and/or alcohol use or possession.
 2. Direct observation of the physical symptoms of being under the influence of drugs or alcohol, such as impairment of motor functions or speech.
 3. A pattern of abnormal conduct or erratic behavior.
 4. 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 distribution.
 5. Newly discovered evidence that the employee tampered with a previous drug test.

Observation shall be by any employee who has a certificate of completion of the PSATS CDL Program's "Probable Cause Training for CDL Supervisory Personnel" class. Any trained employee making non-CDL employee probable cause observations shall make and file with the employer a written report on a form provided by the employer of the attendant circumstances. Such reports shall be confidential and permanently maintained in the employee's file.

D. Post-accident: Any employee involved in an accident as defined herein shall be tested at the employer's expense for drugs as soon after an accident occurs as is possible, but not later than thirty-two (32) hours, and for alcohol as soon after an accident as possible, but not later than eight (8) hours. Provided:

1. Testing should not take precedence over needed medical treatment or other needed emergency measures;
2. If for any reason the tests cannot be obtained within the times provided, the tests shall not be administered. However, refusal to submit to a test or interfering with the successful completion of such a test shall be deemed a positive test result in accordance with Section V below;
3. No employee shall consume alcohol or illegal drugs between the time of the accident and the test administration;
4. An accident shall include any occurrence involving an employer-owned, leased or borrowed vehicle where the following conditions occur:
 - (a) there is a fatality regardless of fault; or
 - (b) bodily injury of any person involved requiring transportation of the injured person away from the accident scene for treatment; or
 - (c) vehicular damage requiring the vehicle the employee was driving to be towed from the scene.

V. TEST STANDARDS

Any refusal or failure by the Employee or Applicant to submit to any test required by this Policy shall be deemed to be a positive result. Refusal to submit to a test under this Policy shall include any act or omission which prevents, thwarts, or frustrates the objectives of this Policy, including without limitation the following: (1) refusal to submit in a timely fashion to testing; (2) refusal or failure by the employee or applicant to complete, sign or initial the required testing forms; (3) refusal or failure without good cause to provide any sample or provide an adequate sample for testing; and/or (4) failure or refusal to cooperate with the testing process in a way which prevents the completion of any required test.

- A. Alcohol Testing. Alcohol testing shall be conducted using a federally approved breathalyzer. Any employee receiving a test result of greater than 0.02 but less than 0.04 breath alcohol level shall be removed from duties for 24 hours. Any test result of 0.04 breath alcohol level or greater shall be considered a positive test and shall subject the employee to the disciplinary provisions of Section VI of this Policy.
- B. Drug Testing. Drug testing shall be conducted by urine sample which shall be analyzed at a federally-approved testing facility. Any test result showing the presence of illegal drugs shall be considered a positive test and shall subject the employee to the disciplinary provisions of Section VI of this Policy. Any employee testing positive for illegal drugs will be asked by the Medical Review Officer if they want to request a split sample of the same specimen to be retested, at the employee's expense.
- C. The employer shall provide or arrange transportation to and/or from the testing site, job site or the employer's facilities, as appropriate, under the following circumstances:
 - i) All probable cause tests;
 - ii) All post-accident tests;
 - iii) All alcohol tests with results of greater than 0.02 breath alcohol level.

VI. CONSEQUENCES OF POSITIVE TESTS

OPTION 2 - RETURN-TO-DUTY OFFERED ONCE

An employee who tests positive for a drug and/or alcohol test will be allowed to return to duty if this is the employee's first positive test and the employee, prior to returning to duty:

- 1. Consults with a drug and alcohol Substance Abuse Professional at the employee's expense within __ weeks of notification of a positive test;*
- 2. Completes all the Substance Abuse Professional's recommended treatment at the employee's expense; and*
- 3. Completes all the Substance Abuse Professional's required drug and/or alcohol tests at the employee's expense and obtain negative results.*

Any subsequent positive result to a drug and/or alcohol test by this same employee will subject that employee to immediate dismissal.

VII. FOLLOW-UP TESTING

If an employee who tests positive for a drug and/or alcohol test is offered the chance to return to duty, that employee shall be subject to and pay for unannounced follow-up drug and/or alcohol tests. Such tests shall be conducted as directed by the assigned Substance Abuse Professional and be at the employee's expense. A positive result on any test administered during this probationary period automatically subjects the employee to immediate dismissal.

VIII. TEST RESULTS

Employees will be notified of any positive drug or alcohol test results. Drug test results shall be retained by the Medical Review Officer responsible for analyzing the employee's test results. Said results shall be held in strictest confidence and shall be accessible only to the employee, the employer, and such other persons authorized by law and shall not be released to any other person except with the written consent of the employee. The results of tests made known to the employer may be released to future employers only with the written consent of the employee.

"Negative but Dilute" Drug Test Results: An employee who receives a "negative but dilute" drug test result will be subject to an immediate re-test upon receipt by the employer of notification of the "negative but dilute" drug test result.

IX. CONFIDENTIALITY OF DOCUMENTS

All files, documents, and records of the employer related to the application of this Policy to individual employees shall be deemed and kept confidential by the employer.

X. RECORDKEEPING

Tests will be conducted by licensed facilities and analyzed by a Medical Review Officer. The PSATS CDL Program's Medical Review Officer is a licensed doctor of medicine with knowledge of drug and alcohol abuse disorders and is employed by the consortium which the employer has joined to conduct alcohol and drug testing in accordance with the federal regulations.

The employer may retain in the employee's personnel file all information pertaining to any required test, including:

1. The employee test notice form;
2. The employer's copy of any testing forms; and
3. The result of any test.

XI. ACCESS TO TEST RESULTS AND FINDINGS

No person may obtain the individual test results retained by the Medical Review Officer, and no Medical Review Officer shall release the individual test results of any employee to any person, without first obtaining written authorization from the tested individual, unless otherwise required by law.

XII. EMPLOYEE ASSISTANCE PROGRAM

The employer may establish the following:

- A. Employees who test positive for drugs or alcohol shall be responsible for obtaining and paying for a Substance Abuse Professional for consultation and treatment.
- B. Employees needing a Substance Abuse Professional can contact American Substance Abuse Professionals, Inc. at (888) 792-2727 to arrange for the necessary counseling with an approved Substance Abuse Professional available in the area.
- C. Caln Township also provides for an Employee Assistance Program through Health Advocate and the phone number is 877-240-6863.
- D. Employees wanting additional educational and training material on drug and alcohol abuse problems shall contact their County Commissioner's Office to obtain information about such services as provided by the county.
- E. An annual one-hour educational program for employees consisting of a review of this personnel policy.
- F. Training in drug and alcohol detection and related matters for supervisory personnel. This supervisory personnel training may be satisfied by attendance at a PSATS CDL Program's "Probable Cause Training for CDL Supervisory Personnel" class.

XIV. MISCELLANEOUS

- A. This Policy shall be implemented with the constitutional and legal rights of the employees subjected to it.
- B. This Policy shall not be deemed to be a covenant of employment or other form of covenant or contract between the employer and any employee.
- C. Any contract for services involving employees shall expressly state whether the contracting party is an independent contractor or employee/agent of the employer.
- D. The definition of terms shall be as contained in the relevant federal regulations.
- E. A copy of this Policy shall be delivered to every employee and applicant for employment who is subject to it and to all supervisory personnel. Such employees shall sign an acknowledgment of receipt of the Policy.
- F. This Policy will be limited by any applicable federal or state law or municipal ordinance, and by any applicable collective bargaining agreements. Any portion of this Policy which directly conflicts with such a law, ordinance, or agreement will not be implemented in that jurisdiction or bargaining unit but shall be severable and shall not affect the validity and enforcement of the remainder of the Policy.
- G. Employees agree to waive any liability against the employer arising out of the employer's administration of this Policy.

XIV. PSATS CDL PROGRAM CONTACT PERSON

The following person is designated by this employer for the purpose of providing information to employees concerning the federal laws and regulations referenced in this Policy:

James Wheeler, Manager
PSATS CDL Program
4855 Woodland Drive
Enola, PA, 17025
(E): cdl@psats.org
(P): 800-235-75759
(I): cdl.psats.org

