

MONROE TOWNSHIP
RESOLUTION NO. 2024 - 4

A RESOLUTION OF MONROE TOWNSHIP, SNYDER COUNTY, PENNSYLVANIA, APPROVING THE ADOPTION OF THE CDL EMPLOYEE DRUG AND ALCOHOL TESTING PERSONNEL POLICY OF MONROE TOWNSHIP

WHEREAS, the Board of Supervisors of Monroe Township (“the Township”) met and reviewed the attached CDL Program Personnel Policy for CDL Employee Random Drug and Alcohol Testing; and

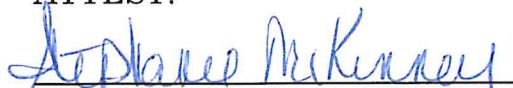
WHEREAS, the Monroe Township Board of Supervisors believes that the CDL Employee Drug and Alcohol Testing Personnel Policy, which is attached hereto as Exhibit A, is in the best interest of the Township for its health, safety, and welfare; and

WHEREAS, the Purpose of the CDL Employee Drug and Alcohol Testing Personnel Policy, as stated in the Policy, is “[t]o comply with the state and federal laws and regulations concerning commercial driver’s licensed (CDL) employees insofar as they apply to this employer.” and “[t]o confirm the employment policies of this employer with the requirements of said laws and regulations.”

NOW, THEREFORE, BE IT RESOLVED, the Township will adopt The CDL Employee Drug and Alcohol Testing Personnel Policy of Monroe Township, which is attached hereto as Exhibit A.

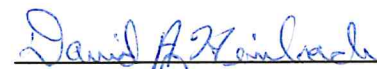
RESOLVED AND ADOPTED at a duly advertised public meeting on this 8th day of March 2024.


ATTEST:


Stephanie McKinney, Secretary

(Monroe Township Seal)

MONROE TOWNSHIP SUPERVISORS:

By: 
David Heimbach, Chairman

By: 
Steven Paige, Supervisor


By: 
Ryan Mack, Supervisor

Exhibit A

THE CDL EMPLOYEE DRUG AND ALCOHOL TESTING PERSONNEL POLICY OF MONROE TOWNSHIP

This Policy is established by Monroe Township adopted and effective March 8, 2024 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 and perform safety-sensitive functions per 49 CFR 382.107, which are any of a broad array of activities related to operating, loading, servicing, or maintaining commercial motor vehicles as further outlined below.

III. FEDERAL REGULATIONS

The regulations of the U.S. Federal Motor Carrier Safety Administration (FMCSA) under Title 49 CFR Part 382 and the Pennsylvania Department of Transportation (PennDOT) under Title 67 Pa. Code Chapter 231 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 per 49 CFR 382, Subpart B, while performing safety-sensitive functions:

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 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.

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.

Prescription drugs must be kept in their original container identifying the drug, dosage, date of prescription, and prescribing physician. In accordance with the authority given it by 49 CFR

382.213(d), this employer can require that CDL employees inform the employer (using PSATS CDL Program Form Drug Use Disclosure) of the nature of any therapeutic drug(s) or substance(s) they take whether such will or will not impair the employee's ability to safely operate any vehicle or equipment.

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.

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 (49 CFR Part 382.301)**: 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. The employer will reimburse the applicant for the cost of this test.

- 2) **Post-accident (49 CFR Part 382.303)**: 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 and a record made of the reason. 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.
- 3) **Random (49 CFR 382.305)**: 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.
- 4) **Probable Cause/Reasonable Suspicion (49 CFR Part 382.307)**: Any employee giving probable cause or reasonable suspicion 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 (using PSATS CDL Program Probable Cause Investigation Form) detailing the attendant circumstances. Such reports shall be kept confidential and a copy permanently retained in the employee's driver qualification file.

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, or other DOT-approved method. 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:

NO RETURN-TO-DUTY

An employee who tests positive for a drug and/or alcohol test shall immediately be removed from safety-sensitive functions and subject the employee to immediate dismissal.

VIII. 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.

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

Records relating to the administration and results of the employer's drug and alcohol testing program for its CDL drivers will be maintained in accordance with 49 CFR Part 382.401.

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.

XI. 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.

XII. 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. 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.
- C. 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.
- D. An annual one-hour training and educational program for covered employees that shall include a review of this personnel policy and other pertinent matters.
- E. 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.

XIII. 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): 800-235-7579
(I): cdl.psats.org

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 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.

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