XI. Consequences for Covered Employees

A. Alcohol Misuse

1. A driver with an alcohol test result indicating a concentration of at least 0.02, but less than 0.04, is not permitted to perform safety-sensitive functions until the start of the driver's next scheduled duty period, but not less than 24 hours following administration of the test.

2. When a driver has an alcohol test result indicating a concentration of 0.04 or greater, the employee shall be prohibited from performing any safety-sensitive functions until: (a) The employee undergoes evaluation by a Substance Abuse Professional (SAP) and, where necessary, rehabilitation; (b) A Substance Abuse Professional (SAP) determines that the employee has successfully complied with any required rehabilitation; and (c) The employee undergoes a return-to-duty alcohol test indicating a result of less than 0.02.

3. A covered employee who refuses to submit to a required alcohol test shall be deemed to have tested at a level above 0.04.

B. Controlled Substance Use

1. When an employee has a positive test result indicating the use of a controlled substance, the employee will be not be permitted to perform safety-sensitive functions until: (a) The employee undergoes evaluation by a Substance Abuse Professional (SAP) and, where necessary, rehabilitation; (b) A Substance Abuse Professional (SAP) determines that the employee has successfully complied with any required rehabilitation; and (c) The employee undergoes a return-to-duty test for controlled substances with a verified negative result.

2. A covered employee who refuses to submit to a required controlled substances test shall be deemed to have tested positive for controlled substances.

C. Other Potential Penalties

1. The FHWA will disqualify drivers for one year, under the procedures in 49 CFR 386, if a driver refuses to submit to a post-accident test after a fatal accident.

2. Any employer or driver who violates the requirements of Title 49 CFR Part 382 may be subject to other penalties under the provisions of 49 U.S.C. 521(b).