

4-12: Omnibus Transportation Employee Testing Act

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I. PURPOSE

This policy is intended to provide compliance with the legislative and regulatory requirements for drug and alcohol testing of applicants and employees who operate commercial vehicles or who are in positions that are required by state law to have a commercial driver's license to perform their duties. Persons (referred to herein as "driver or drivers") covered by this policy include, but are not limited to:

Full-time, regularly employed drivers of commercial motor vehicles,
Full-time employees who are intermittent or occasional drivers of commercial motor vehicles,
Hourly, casual or temporary drivers of commercial motor vehicles,
Students and volunteers who drive commercial motor vehicles

II. GENERAL

A. Some Basic Definitions - Whenever used in this policy the following terms shall have the meanings set forth below unless otherwise expressly provided:

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.

"Alcohol use" means the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

"Alcohol concentration" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

"Breath alcohol technician (BAT)" means an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.

"Commercial motor vehicle" (CMV) means a motor vehicle or combination of motor vehicles, used in commerce to transport passengers or property, if the motor vehicle (1) has a gross combination weight rating of 26,001 pounds or over, including a towed unit with a gross vehicle weight of over 10,000 pounds, or (2) has a gross vehicle weight rating of 26,001 pounds or over; or (3) is designed to transport 16 or more passengers (including the driver) or (4) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which requires the motor vehicle to be placarded under the Hazardous Materials Regulations (49CFR part 172, Subpart F).

"Confirmation test" means, in alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. In controlled substances testing, a second test to identify the presence of a specific drug or metabolite. In order to ensure reliability and accuracy this test is separate from and used as a different technique and chemical principle from the screening test.

"Controlled substances" and the term "drugs", for the purposes of this policy, have the same meaning and are interchangeable. Unless otherwise specified, these terms include any substance that has a known mind or function altering affect on a person. These include, but are not limited to: (1) marijuana or any other tetrahydrocannabinol derivative; (2) cocaine; (3) opiates; (4) phencyclidine (PCP); (4) amphetamines, including methamphetamine; and all other substances prohibited or controlled by Colorado and federal controlled substance laws. A prescribed drug is any substance prescribed for the individual by a licensed medical practitioner which is used in the manner, combination and quantity prescribed.

"Evidential breath testing device" means a device used for alcohol breath testing that has been approved by the National Highway Transportation Safety Administration ("NHTSA") and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices."

"Medical review officer" means a licensed physician with knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an individual's confirmed positive test, medical history, and other relevant biomedical information. The role of the medical review officer is to review and interpret confirmed positive drug test results obtained through the testing program.

"Safety-Sensitive Functions" - A driver is considered to be performing a safety-sensitive function when he or she is actually operating a CMV, is immediately available for this activity, or is performing a related function as follows:

- All times at a plant, terminal facility or other property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by the College.
- All time inspecting equipment or otherwise inspecting, servicing or conditioning any CMV at any time.
- All driving time, meaning all time spent at the driving controls of a CMV in operation.
- All time, other than driving, in or upon any CMV.
- 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 or other documents.
- All time spent performing the driver requirements of 49 CFR part 392,

Sec. 392.40 and 41 relating to accidents.

- All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- All time spent providing a breath sample or urine specimen, including travel time to and from the collection site in order to comply with this policy.

"Performing a safety sensitive function" includes any period in which the driver is actually performing, ready to perform or immediately available to perform any safety sensitive function.

"Refusal to submit (to an alcohol or controlled substance test)" means when an employee:

- Fails to provide adequate breath testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy.

- Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy' or requirement for urine testing in accordance with the provisions of this policy.

- Engages in conduct that clearly obstructs the testing process.

"Screening test" means, in alcohol testing, a procedure to determine if a driver has a prohibited concentration of alcohol in his/her system. In controlled substances testing it means a screen to eliminate "negative" urine specimens from further consideration.

"Substance abuse" means a pattern of use that results in health consequences or impairment in social, psychological, and occupational functioning.

"Substance Abuse Professional" means a licensed physician, or a licensed certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders. The institution shall have a list of local Substance Abuse Professionals available for employees. This list shall be located in the Office of Human Resources.

III. PROHIBITIONS

A. Prohibitions for Alcohol

1. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No supervisor having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform safety-sensitive functions.

2. No driver shall be on duty or operate a CMV while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. No supervisor having actual knowledge that a driver possesses unmanifested alcohol may permit the driver to drive or continue to drive a CMV.

3. No driver shall use alcohol while performing safety-sensitive functions. No supervisor having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

4. No driver shall perform safety-sensitive functions within four hours after using alcohol. No supervisor having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform safety-sensitive functions.

5. No driver required to take a post-accident alcohol test pursuant to this policy shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident test, whichever occurs first.

6. No driver shall refuse to submit to any alcohol or controlled substances test required under this policy. No supervisor shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

B. Prohibitions for Controlled Substances - The Federal Highway Administration bans the use of controlled substances by drivers. Drivers who use controlled substances are considered medically unqualified to drive.

1. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver in writing that the substance does not adversely affect the driver's ability to safely operate a CMV. No supervisor having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

2. No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances. No supervisor having actual knowledge that a driver has tested positive for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

IV. TYPES OF TESTING

A. Pre-Performance of Duties - Before any new employee or current employee who is transferred to a different position that requires a commercial driver's license is permitted to perform safety-sensitive work, the person shall submit to testing for alcohol and controlled substance testing.

In addition, a prospective employee or transferee who has performed safety-sensitive functions for any other employer in the last two years is required to complete and sign a consent form

authorizing such previous employers to release alcohol and drug testing information to the institution. The specific information is:

1. Alcohol test results with a alcohol concentration of 0.04 or greater.
2. Positive drug test results.
3. Refusal to submit to a required alcohol or drug test.

If the institution learns from a previous employer that the new employee or transferee tested positive for drugs, had a alcohol test result of 0.04 or greater, or refused to be tested, he or she cannot perform safety-sensitive functions until the institution has evidence that he or she has met the return-to-duty requirements.

B. Post-Accident - Tests are required of the employee if the accident included a fatality or the employee receives a citation under state or local law for a moving traffic violation arising from the accident. If an alcohol test is not administered within two hours after the accident, the College shall prepare and maintain a record of the reasons why. If an alcohol test is not administered within eight hours after the accident, the College shall cease attempts to administer the test and shall prepare and maintain a record of why the test was not administered. If a drug test is not administered within 32 hours after the accident, the College shall cease attempts to administer the test and shall prepare and maintain a record of the reasons why the test was not administered. Drivers who are subject to post accident testing may be deemed by the College to have refused to submit to testing if they have not remained readily available for testing.

C. Random - Unannounced random testing will be completed on a certain number of employees each year. The selection of drivers will be made by a scientifically valid method to ensure that each driver has an equal chance of being tested each time selections are made. The random tests will be unannounced and spread reasonable throughout the year. All drivers are considered for random testing each time selections are made. The possibility exists that some drivers may be selected several times for testing and other drivers may not be selected at all. Additionally some drivers may be required to test for alcohol and drugs and some drivers may only test for one. Alcohol tests shall be performed only while, immediately before, or immediately after the employee is performing safety-sensitive functions. Drug testing may be performed at any time while the employee is at work.

Random alcohol testing shall be administered at a minimum annual rate of 25% of the average number of positions performing safety-sensitive functions. A drawing for random testing shall be done each quarter by the administrators of the State Consortium testing pool (currently Pharm-Chem).

D. Reasonable Suspicion - Drug or alcohol tests may be requested by a trained supervisor who has reasonable suspicion that an employee has violated the prohibitions in III A-B above. The suspicion must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. Such observations must be made just before, during or after the performance of safety-sensitive functions. If an alcohol test is not administered within two hours of the supervisor's determination that the College has reasonable suspicion that an employee has violated the prohibitions in C 1 the College shall

prepare and maintain a record stating the reasons why the alcohol test was not promptly administered. If an alcohol test is not administered within eight hours of the supervisor's determination that the college has a reasonable suspicion that an employee has violated the prohibitions in C 1, the college shall cease attempts to administer the test and shall prepare and maintain a record stating the reasons for not administering the test.

E. Return To Duty - Tests are required of an employee who has violated the alcohol or drug prohibitions as a condition of their return to work. Prior to testing, the employee must have been evaluated by the Substance Abuse Professional and participated in any assistance program prescribed by the Substance Abuse Professional.

An alcohol test result must indicate a concentration of less than 0.02. A drug test result must be verified negative.

Return-to-duty tests need not be confined to the substance involved in the violation. The Substance Abuse Professional shall decide what tests are to be conducted based upon their assessment.

F. Follow-Up - Tests will be performed if the Substance Abuse Professional determined that the employee needed assistance resolving problems associated with alcohol or drug use. The tests are unannounced and there must be a minimum of 6 tests during the 12 month period following return to duty.

Each alcohol test result must indicate a concentration of less than 0.02. Each drug test must be verified negative.

Follow-up tests need not be confined to the substance involved in the violation. The Substance Abuse Professional shall decide what tests are to be conducted based upon their assessment.

V. ALCOHOL TESTING METHODOLOGY

A. Evidential Breath Testing Device (EBT) - The EBT will be used for alcohol testing. The EBT, used by the agent employed to conduct alcohol testing, shall be approved by the National Highway Traffic Safety Administration (NHTSA) and listed in the "Conforming Products List of Evidential Breath Measurement Devices."

B. Breath Alcohol Technician (BAT)

1. The breath alcohol technician (BAT) shall demonstrate proficiency and successfully complete a course of instruction as approved by NHTSA. This course of instruction will provide training in the principles of EBT methodology, operation, and calibration checks, the fundamentals of breath analysis for alcohol contact, and the procedures required for obtaining a breath sample and interpreting and recording EBT results.

2. The course of instruction will provide documentation that the BAT has demonstrated competence in the operation of the specific type of EBT being used.

3. Any BAT who will perform an external calibration check of an EBT shall be trained to proficiency in conducting the check on the particular model of EBT, (including practical experience and demonstrated competence in preparing the breath alcohol simulator or alcohol standard), and in maintenance and calibration of the EBT.
4. The BAT will receive additional training, as needed to ensure proficiency, concerning new or additional devices or changes in technology that will be used.
5. Documentation of the training and proficiency test of each BAT used in alcohol testing will be maintained by the agent providing alcohol testing for this program.

C. Quality Assurance Plan (QAP) for EBTs

1. In order to be used in either screening or confirmation alcohol testing, the EBT shall have a quality assurance plan (QAP) developed by the manufacturer.

The EBT's quality assurance plan shall be approved by NHTSA. The plan shall designate the method or methods used to perform external calibration checks on the EBT device, using only calibration devices listed in the NHTSA "Conforming Products List of Calibrating Units for Breath Alcohol Tests."

Any EBT used in this testing program must be taken out of service if any calibration check results in a reading outside the tolerances for the EBT set forth in the QAP. It cannot be placed back in service until it has been repaired and the calibration reading is again within the tolerance limit.

D. Security - The alcohol testing location shall afford the individual being tested visual and aural privacy. No unauthorized personnel shall be permitted access to the testing location. The BAT shall supervise only one employee at a time. The BAT shall not leave the testing location while the testing procedure for a given employee is in progress.

E. Testing - When alcohol testing is required, the employee will show positive identification, either a photo ID or verbal confirmation of identity by the Office of Human Resources designated personnel, when arriving at the test site. The employee may request the BAT to show positive identification of credentials. The BAT will then explain the testing procedure to the employee.

Note: The following procedures explaining the breath alcohol testing process, are written to explain the DOT requirements and steps to be used in alcohol testing methodology. Changes and/or additions to any testing procedures required by DOT shall take precedence.

1. Screening Test Procedure

- a) The BAT will open in plain view of the employee, an individually sealed mouthpiece and attach it to the EBT.

b) The employee shall blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.

c) The BAT will show the employee the result displayed on the EBT. If the result is less than 0.02, the BAT will print that information on the certification form and date and sign the certification form. The employee will also sign the certification form.

2. Confirmation test Procedure

a) If the result is 0.02 or greater, a confirmation test must be performed. The confirmation test shall be conducted within 20 minutes of the original screening test. A new individually sealed mouthpiece shall be opened in plain view of the employee and attached to the EBT. Certifications will be done in the same manner as performed in the screening test. If the results of the screening test and the confirmation test are not identical, the confirmation test result is deemed to be the final result upon which any action under administration rules shall be based.

b) The BAT shall notify the designated person in the Office of Human Resources/Equal Opportunity of the results of the screening or confirmation tests within 24 hours if they are not present for the tests. The BAT will immediately notify the Office of Human Resources designated person of the results that require Fort Lewis College to prevent the employee from performing a safety-sensitive function (results 0.02 or greater). This may be accomplished by telephone.

3. Test Refusals - The BAT must terminate the test and the test will be considered a refusal to test if any of the following situations occur if an employee:

a) Refuses to provide breath.

b) Refuses to provide an adequate amount of breath.

If an employee is unable or alleges that he/she is unable to provide an amount of breath sufficient to permit a valid test because of a medical condition, the BAT will again instruct the employee to attempt to provide an adequate amount of breath. If the employee refuses it is considered a refusal to test and the BAT will inform the Office of Human Resources designated personnel. If the employee attempts and fails to provide an adequate amount of breath, the BAT shall so note on the certification form and immediately inform the Office of Human Resources designated personnel.

Note: If an employee attempts and fails to provide an adequate amount of breath the Office of Human Resources designated personnel will direct the employee to obtain, as soon as possible, an evaluation concerning the employee's medical ability to provide an adequate amount of breath by a licensed physician employed as an agent of Fort Lewis College. The physician shall provide the college a written statement of the basis for his/her conclusion. If the physician finds that there is a medical condition which could have precluded the employee from providing an adequate amount of breath, the employee's failure to provide breath will not be deemed a refusal. If the physician is unable to make the determination as listed above the employee's failure to provide

an adequate amount of breath shall be regarded as a refusal to take a test. The physician will provide a written statement of the basis for his/her conclusion to the Office of Human Resources designated personnel.

c) Refuses to otherwise cooperate with the testing process.

An employee, notified of an alcohol testing requirement, who doesn't go to the testing site and report to the BAT for testing is considered to have refused to be tested.

Any employee requiring Post-Accident testing who does not contact the Office of Human Resources designated personnel for testing instructions and/or does not complete testing requirements is considered to have refused to be tested.

An employee who refuses to cooperate with a Substance Abuse Professional or acts in any manner that obstructs the testing, evaluation or reporting of results is considered to have refused to complete alcohol testing.

4. Incomplete and Invalid Tests - If a screening or confirmation test cannot be completed, or if an even occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test. Note: Obstructing a test or refusing a test is not considered an incomplete or invalid test. Those actions are considered refusals to test. An invalid test is considered neither positive nor negative and has no consequences for an employee. A breath alcohol test is considered invalid if:

a) There is a malfunction of the EBT.

b) The BAT does not observe the minimum 15 minute waiting period prior to the confirmation test.

c) The BAT does not perform an air blank of the EBT before a confirmation test, or an air blank does not result in a reading of 0.00 prior to or after the administration of the test.

d) The BAT does not sign the certification form.

e) The BAT failed to note on the certification form that the employee has failed or refused to sign the form following the recording of the test results, if applicable.

VI. CONTROLLED SUBSTANCES TESTING METHODOLOGY

A. Chain of Custody - The State of Colorado Department of Personnel contracts with a company (currently Pharm-Chem) to provide administration of a random testing pool for State of Colorado drivers, to process testing for State of Colorado drivers and to provide an MRO for State of Colorado drivers. Pharm-Chem has certified, during their Request For Proposal process that they will provide laboratories for collection and testing which are certified by the Department of Health and Human Services and adhere to DHHS guidelines. They will maintain a clear and well-documented procedure for collection, shipment and accession of urine specimens. La Plata

Family Medicine currently collects all specimens in the Durango area and ships the specimens to Pharm-Chem labs for testing. A standard drug testing chain of custody and control form is utilized for each specimen from the point of collection to final disposition. The date and purpose shall be documented on the form each time a specimen is handled or transferred and every individual in the chain shall be identified. The form will allow the employee to indicate a telephone number where the Medical Review Officer can reach the employee.

Note: The following procedures explaining the specimen collection process are written to explain the DOT requirements and steps to be used in drug testing methodology. Changes and/or additions to any testing procedures required by DOT shall take precedence.

B. Preparation for Testing - In addition to using a custody and control form, test preparation procedures include:

1. Use of a clean, single-use specimen bottle that is securely wrapped until filled with the specimen.
2. Use of a tamper-proof seal system designed in a manner that the specimen bottle top can be sealed against undetected opening on a bottle allowing for the identification of the test subject, either by number or by some other confidential mechanism.
3. Use of shipping container in which one or more specimens and associated paperwork may be transferred, and which can be sealed and initialed to prevent undetected tampering.

C. Security and Privacy - Security procedures for the collection site shall provide for the following:

1. Visual inspection to insure that no other persons are present or may gain access during the collection process.
2. Restrict access to collection materials and specimens.
3. No unauthorized personnel shall be permitted access to the collection site. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.
4. The chain of custody form must be properly executed by the authorized site collection person. Handling and transportation of urine specimens from one authorized individual or place to another must be recorded on the chain of custody form. Every effort must be taken to minimize the number of persons handling a specimen.
5. The collection site person shall collect only one specimen at a time.
6. Procedures for collecting urine specimen shall allow individual privacy unless there is reason to believe that an employee may alter or substitute the specimen being provided. The following

circumstances are the exclusive grounds constituting a reason to believe the employee may alter or substitute the specimen:

a) The employee has presented a urine specimen that falls outside the normal temperature range (32 degrees - 38 degrees C/90 degrees - 100 degrees F), and the employee declines to provide a measurement of oral body temperature; or oral body temperature varies by more than one degree C from the temperature of the specimen.

b) A urine specimen provided by the employee on a previous occasion was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L.

c) The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample.

d) The employee has been previously determined to have used a controlled substance without medical authorization and the particular test was being conducted under a DOT agency regulation providing for follow-up testing upon or after return to service.

7. A higher-level supervisor of the collection site person, or a member of the designated personnel in the Office of Human Resources, shall review and concur in advance with any decision by a collection site person to obtain a specimen under the direct observation of a same-gender collection site person.

D. Testing - Collection site personnel shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine bottle and on the urine custody and control. Precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified.

1. Collection site personnel shall ensure the employee is positively identified as the employee selected for testing (e.g., use photo identification or positive verbal identification by the designated personnel in the Office of Human Resources. A record should be made if the identification requested above cannot be used. The donor should be requested to provide two forms of identification bearing his/her signature. Proceed with the collection. When the donor signs the certification statement, compare the donor signature with the signatures on the identification provided earlier. If the signatures appear consistent, continue to process the specimen. If the signature does not match the signatures on the identification presented, make an additional note on the certification form. If positive identification is not possible, the collection shall not proceed.

2. If the employee fails to arrive at the site at the assigned time, the collection site shall contact the Office of Human Resources.

3. The collection site person shall ask the employee to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the employee's urine specimen.

4. The employee shall be instructed to wash and dry their hands prior to urination. After washing hands, the employee shall remain in the presence of the collection site person and not have access to any materials which could be used to adulterate the specimen.
5. The employee may provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
6. The employee shall provide at least 45 ml of urine under the split sample method of collection.
7. If a collection container is used the collection site person, in the presence of the donor, pours the urine into two specimen bottles. Thirty (30) ml shall be poured into one bottle to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.
8. If a single specimen bottle is used as a collection container, the collection site person shall pour 30 ml of urine from the specimen bottle into a second specimen bottle (to be used as the primary specimen) and retain the remainder (at least 15 ml) in the collection bottle (to be used as the split specimen).
9. Both bottles shall be shipped in a single container, together with copies 1,2 and the split specimen copy of the chain of custody form to the laboratory.
10. If the test result of the primary specimen is positive, the employee may request the MRO direct the split specimen be tested in a different DHHS certified lab for the presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request if it is made within 72 hours of the employee having been notified of a verified positive test result.
11. When the MRO informs the laboratory in writing the employee has requested a test of the split specimen, the laboratory shall forward, to a different DHHS approved laboratory, the split specimen bottle, and the split specimen copy of the chain of custody form with appropriate chain of custody entries.
12. The result of the test of the split specimen is transmitted by the second laboratory to the MRO.
13. Action required by DOT agency regulations as the result of a positive drug test (e.g., removal from safety-sensitive function) is not stayed pending the result of the test of the split specimen.
14. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellations and the reasons for it to the DOT, the employer and the employee. Note: A canceled test is neither a positive nor a negative test. Once a test is canceled, the only actions that shall take place are administrative in nature. All records shall reflect cancellation of the test.

15. In either collection methodology, upon receiving the specimen from the individual, the collection site person shall determine if it has at least 30 ml of urine for the primary specimen bottle, and an additional 15 ml of urine for the split specimen bottle. If the employee is unable to provide such a quantity of urine, the collection site person shall instruct the employee to drink not more than 24 ounces of fluids and, after a period of up to two hours, again attempt to provide a complete sample using a fresh collection container. The original insufficient specimen shall be discarded. If the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued and the Office of Human Resources designated personnel notified. Copies of the custody and control form should be distributed to the employee, employer, MRO and the collection site. Laboratory copies shall be destroyed. The MRO shall refer the employee for a medical evaluation to develop pertinent information concerning whether the employee's inability to provide a specimen is genuine or constitutes a refusal to test. Upon completion of the examination, the MRO shall report his/her conclusions to the Office of Human Resources designated personnel in writing.

a) If the MRO concludes, after the medical evaluation, there is a possible legitimate explanation for the employee's inability to provide a sufficient amount of urine, the employee will be rescheduled for testing within 30 days.

b) If the MRO concludes, on the basis of the information from the medical evaluation, the employee should be able to provide sufficient amount of urine for the testing, the employee will be rescheduled for testing within 30 days. A subsequent failure to provide sufficient amount of urine for testing will be considered a refusal to test.

16. After the specimen has been provided and submitted to the collection site person, the employee shall be allowed to wash his/her hands.

17. Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The time from urination to temperature measure is critical and in no case shall exceed 4 minutes.

18. A specimen temperature outside the range of 32 degrees - 38 degrees C/90 degrees - 100 degrees F, constitutes a reason to believe the employee has altered or substituted the specimens. In such cases, the individual supplying the specimen may volunteer to have his/her oral temperature taken to provide evidence to counter the reason to believe the employee may have altered or substituted the specimens.

19. Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminants. Any unusual findings shall be noted on the urine custody and control form.

20. All specimens suspected of being adulterated shall be forwarded to the laboratory for testing.

21. Whenever there is reason to believe that an employee has altered or substituted the specimen as described under paragraph VI C 3 of this policy, a second specimen shall be obtained as soon as possible under direct observation. In any case where a collection is monitored (direct

observation) by non-medical personnel the collection site person shall be of the same gender as the donor.

22. Both the employee being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed, by placement of a tamper-proof seal over the bottle cap and down the sides of the bottle, and labeled in the presence of the employee.

23. The employee shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from him/her.

24. The collection site person shall enter on the drug testing and control form all information identifying the specimen. The collection site person shall sign the drug testing custody and control form certifying the collection was accomplished according to the applicable Federal requirements.

25. The employee shall be asked to read and sign a statement on the drug testing custody and control form certifying the specimen identified as having been collected from him/her is in fact the specimen he/she provided.

26. The collection site person shall complete the chain of custody portion of the drug testing control form to indicate receipt of the specimen from the employee and shall certify proper completion of the collection.

27. The urine specimen and the chain of custody form are not ready for shipment. If the specimen is not immediately prepared for shipment, the collection site person shall ensure that it is appropriately safeguarded during temporary storage.

E. Failure to Cooperate and Test Refusals

1. The following conditions constitute a refusal to submit to drug testing:

- a) Refusal by an employee to complete and sign the drug testing and control form and/or initial the label.
- b) Refusal to provide urine or failure to provide a sufficient amount of urine when no medically founded reason exists as determined by the MRO based on medical information.
- c) Failure to otherwise cooperate with the testing process in a way that prevents the completion of the test. The collection site person shall note this non-cooperation on the drug testing custody and control form and notify the Office of Human Resources designated personnel.

2. An employee, notified of a drug testing requirement, who doesn't go to the testing site and report to the collection site person is considered to have refused to test.

3. An employee requiring Post-Accident testing, who does not contact the Office of Human Resources/Equal Opportunity designated personnel for testing instructions and/or does not complete Post-Accident testing requirements is considered to have refused to test.

4. Failing to cooperate with the substance abuse professional or acting in any manner that obstructs the testing, evaluation or reporting of results is considered to have refused to test.

F. Employee Requiring Medical Attention - If a sample is being collected from an employee in need of medical attention, necessary medical attention shall not be delayed in order to collect the specimen.

G. Laboratory Analysis

1. Laboratory analysis of the specimens may be accomplished only by laboratories certified by the Department of Health and Human Services in accordance with 49 CFR, Part 40. These regulations require tight security and utilization of internal chain of custody forms at all times by laboratory personnel from the time the specimen is received until the time it is finally destroyed.

2. Every specimen is required to undergo an initial screen followed by confirmation of all positive screen results. The screen-confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine.

3. The immunoassay method is used in the initial screening process. All specimens identified as positive on the initial screening test shall be confirmed using gas chromatography/mass spectrometry of GCS/MS techniques at the cutoff levels as determined by the Department of Health and Human Services. All confirmations shall be by quantitative analysis.

VII. CONSEQUENCES

A violation of Section III is considered an extremely serious breach of College policy. An employee who violates any of the prohibitions in III, above will experience any one or more of the following consequences:

A. Receipt of a Corrective Action (classified staff).

B. Disciplinary Action(s), as warranted, up to and including dismissal from employment. There will be mandatory termination of employment after a second violation.

C. Not allowed to perform any safety-sensitive functions until officially returned-to-duty under IV E above and VII F below.

D. Provision of information from management concerning the resources available to the employee for evaluating and resolving the problem.

E. Initial evaluation by a substance abuse Professional

F. Required to undergo return-to-duty testing and produce said results of testing. Return will not occur until the employee has participated in any assistance program prescribed by the substance abuse professional and then been reevaluated by that professional, if required. Drivers who tested to an alcohol concentration of between 0.02 and 0.04 will be removed from performing any safety-sensitive functions for 24 hours and will be required to retest.

G. Required to undergo unannounced follow-up alcohol and/or drug testing and produce satisfactory results, as directed by the substance abuse professional.

VIII. PROCEDURES - GENERAL

Procedures will be done in accordance with 49 CFR Part 382 (Controlled Substance and Alcohol Use and Testing Regulations) and 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs)

A. The College shall provide copies of its policy and information that explains the requirements of the law to every current driver and every driver subsequently hired or transferred into a position which requires the performance of safety-sensitive functions. Each driver will be required to sign a statement certifying that he or she has received the information and the College shall maintain the original of the signed certificate.

B. Cost Responsibility

1. The institution pays for all testing and processing costs except for the processing of the second part of a split urine sample at an employee's or applicant's request. The latter shall be paid for by the employee or applicant.

2. All time associated with testing will be paid work time except for job applicants undergoing pre-employment testing and employees doing return-to-work testing while in an unpaid status.

3. The employee is responsible for any fees charged for visits with a Substance Abuse Professional. The employee is also responsible for any costs associated with treatment or other course of action recommended by the Substance Abuse Professional.

4. A driver is entitled, upon written request submitted to the Director of Human Resources, to obtain copies of any records pertaining to the driver's use of alcohol or drugs, including any records pertaining to his or her alcohol or controlled substances test. The College will promptly provide the records requested by the driver.

C. Any supervisor requesting a test for controlled substances or alcohol must meet all recordkeeping requirements of these procedures and, if applicable, the OTETA.

D. Supervisors shall receive training and materials regarding the implementation of this policy. Documentation of attendance and content of training programs shall be maintained by the Director of Human Resources.

E. The Director of Human Resources shall be the "designated personnel" in the Office of Human Resources and shall be the person designated by the College to answer questions about the policy.

IX. EFFECTS/SIGNS AND SYMPTOMS OF SUBSTANCE ABUSE

Effects associated with substance abuse include slower reaction time, mood swings, and poor concentration or judgment. Drug or alcohol "users" are likely to have more absences of eight or more days from work, injure themselves or co-workers, be less productive, be late for work more often, generate higher medical costs and file more worker's compensation claims than "non-users". This results in danger to co-worker's safety, efficiency and work satisfaction as well as being costly.

Common signs or symptoms of an alcohol or controlled substance problem (driver or coworker) are frequent absenteeism, extended lunch hours or breaks, decreased productivity, problems with coworkers, deteriorating personal grooming, errors in judgment or increased accidents on and off the job. When these symptoms are apparent supervisors or managers should:

- A. Document the observations fairly and consistently.
- B. Meet with the employee to discuss their concerns.
- C. Develop a written plan for improvement.
- D. Follow-up.

The supervisor is not to diagnose an employee's problems, but to advise the employee about poor performance and to reach an agreement about ways to improve performance. The supervisor should make clear that alcohol and/or drug use impairs performance and is unacceptable. The employee should be referred to Western Employee's Assistance Services, the employee assistance program at Fort Lewis College. The Director of Human Resources should be consulted. A list of other services is available in the Office of Human Resources.