



**Alcohol and Controlled Substances Testing  
Procedures**

Effective Date: 01/01/2015

## **Table of Contents**

- I. Policy and Regulatory Basis**
- II. Designated Employer Representative (DER)**
- III. Applicability**
  - A. Covered Individuals
  - B. Safety-Sensitive Functions
- IV. Prohibited Conduct**
  - A. Alcohol Concentration
  - B. On-Duty Use
  - C. Pre-Duty Use
  - D. Use Following an Accident
  - E. Refusal to Submit a Required Alcohol or Controlled Substances Test
  - F. Controlled Substance Use
  - G. Controlled Substance Testing
- V. Tests Required**
  - A. General
  - B. Requirement for Notice
  - C. Pre-employment Controlled Substance Testing
  - D. Post-Accident Testing
  - E. Random Testing
  - F. Reasonable Suspicion Testing
  - G. Return to Duty and Follow-up Testing
- VI. Testing Procedures**
  - A. Urinalysis Drug Testing
  - B. Evidential Breath Testing
- VII. Consequences for Covered Employees Found to Have Engaged in Prohibited Conduct**
  - A. Removal From Safety-Sensitive Functions
  - B. Required Evaluation and Testing
  - C. Other Alcohol Related Conduct
  - D. Other Potential Penalties
- VIII. Disciplinary Procedures**
- IX. Records Retention, and Confidentiality**
  - A. Release of Information
  - B. Period of Retention
  - C. Types of Records
  - D. Location of Records

**X. Effect of Other Applicable Law on These Procedures**

**XI. No Contract**

**XII. Headings**

**XIII. Definitions**

- A. Alcohol
- B. Alcohol Concentration (or Content)
- C. Alcohol Test
- D. Alcohol Use
- E. Breath Alcohol Technician (BAT)
- F. Canceled or Invalid Test
- G. Commercial Motor Vehicle
- H. Confirmation Test
- I. Controlled Substance
- J. Controlled Substance Test
- K. Covered Employee
- L. Designated Employer Representative
- M. Driver
- N. Evidential Breath Testing Device (EBT)
- O. Follow-up Test
- P. On-Duty Time
- Q. Performing (a safety-sensitive function)
- R. Post-Accident Test
- S. Reasonable Suspicion Test
- T. Refusal To Submit (to an alcohol or controlled substances test)
- U. Return-To-Duty Test
- V. Substance Abuse Professional (SAP)
- W. Supervisor
- X. Trained Supervisor or Trained Official

**XIV. Appendix A: Employee Assistance Plan**

**XV. Forms**

- A. Post-Accident Alcohol and Controlled Substances – Delay of Test
- B. Reasonable Suspicion Determination Checklist
- C. Prior Testing History Release of Information
- D. Employee Acknowledgment Form

## I. Policy and Regulatory Basis

- A. The University of Idaho strives to maintain an environment conducive to inquiry and learning which is free of illegal drugs and abuse of alcohol. The university requires employees to undergo drug and alcohol testing where required, and to the extent required, by law.
- B. This document provides information on the University of Idaho Alcohol and Controlled Substances Testing Procedures. These procedures are established to comply with federal law (Omnibus Transportation Employee Testing Act (OTETA) of 1991 and Federal Highway Administration (FHWA) regulations (49 CFR, Part 382)) requiring the University to conduct alcohol and controlled substance tests of certain transportation workers.
- C. Nothing herein shall preclude the University of Idaho from establishing rules, regulations, policies and/or procedures in addition to those required by The Act so long as they do not conflict with the requirements of the Act. The University of Idaho has work rules which prohibit the possession or use of alcohol and controlled substances in the work environment.

## II. Employer Responsibilities

### A. Designated Employer Representative (DER)

The Director of Human Resources or designee will administer and ensure compliance with the Omnibus Transportation Employee Testing Act of 1991 (The Act) for the University of Idaho and will be the designated authority concerning administration of the policy and procedures.

Questions about these procedures may be addressed to the DER or designee at (208) 885-3008 or (208) 885-3050. University employees are also encouraged to refer to the federal regulation found in 49 C.F.R. Part 382, which are cited frequently in these procedures. Copies of may be obtained from Human Resource Services, 415 West Sixth Street, Moscow, Idaho, 83844-4332 or online at: [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc) and [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

### B. Supervisor(s) and Drivers

Employees and supervisors are responsible for being informed about the University's policies and procedures regarding alcohol and controlled substances.

Initial training and periodic re-training sessions will be provided for supervisors and Covered Employees to familiarize them with these procedures. Employees and supervisors are expected to attend training sessions which are offered.

### C. Employer Notification

#### **Notice to Job Applicants**

The employer will notify an applicant of the results of a pre-employment controlled substances test conducted under this policy if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application.

### **Notice to Covered Employees**

The University will provide each Covered Employee with information concerning the effects of Alcohol and Controlled Substances use on an individual's health, work and personal life; signs and symptoms of an Alcohol or Controlled Substances problem (the Covered Employee's or a co-worker's); and available methods of intervening when an Alcohol or Controlled Substances problem is suspected, including confrontation, referral to the Employee Assistance Program and/or referral to management.

The employer will notify covered employees of the results of random, reasonable suspicion and post-accident tests for controlled substances conducted under this policy if the test results are verified positive. The employer will also notify the employee which controlled substance(s) were verified as positive.

### **Reports from Medical Review Officers (MRO's)**

The MRO will review confirmed positive drug test results including the chain of custody and will give the employee an opportunity to discuss the results before notifying the employer. When a Medical Review Officer (MRO) has been unable to contact a covered employee who submitted a specimen for controlled substances testing, the MRO will contact the employer's designated representative. The designated employer's representative will make reasonable efforts to contact the employee and request them to contact and discuss the results of the tests with the MRO. If the employee fails to contact the MRO within 72 hours, the test results will be reported to the employer as positive.

#### **D. Notice of Test(s)**

Each Covered Employee shall sign a statement certifying that he or she has received a copy of these Procedures. The University shall maintain the original of the signed statement and may provide a copy to the Covered Employee.

#### **E. Testing Procedures**

The University of Idaho will ensure that all alcohol or controlled substance testing conducted under the policy is conducted in accordance with 49 CFR Part 40 procedures.

#### **F. Implementation Date**

These procedures will be implemented on January 1, 2015.

### **III. Applicability**

- A. Covered Individuals. "Covered Individuals" include all University of Idaho employees ("Covered Employees"), as well as certain other individuals, who operate a Commercial Motor Vehicle (CMV) as defined in Section XIII (Definitions) of these Procedures. For purposes of pre-employment (post-offer/pre-duty) testing only, "Covered Employee" includes a person applying to the University for a position of employment in which a CMV may be driven.

These procedures apply to all University of Idaho employees who 1) operate a commercial motor vehicle (CMV) 26,001 lbs. gvwr or greater, or 2) operate a vehicle that carries 16 passengers or more including the driver, or 3) are required to display a DOT placard in the transportation of hazardous material.

B. Safety-Sensitive Functions. A driver is required to be in compliance with this policy at all times while on duty performing any safety-sensitive function. On-duty time means all time from the time a driver begins 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:

1. All time spent at an employer or shipper plant, terminal, facility, or other property or on any public property, waiting to be dispatched;
2. All time inspecting equipment<sup>1</sup>, or otherwise inspecting, servicing, or conditioning any CMV at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial vehicle except time spent resting in a sleeper berth<sup>2</sup>;
5. All time spent loading, unloading a CMV, or supervising, or assisting in the loading or unloading, attending a CMV being loaded or unloaded, remaining in readiness to operate the CMV, or giving or receiving any related paperwork;
6. All time spent repairing, assisting, or attending to a disabled motor vehicle.

A driver shall be considered to be performing safety-sensitive functions during any period during which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**A driver must not consume alcohol while on duty, four hours prior to on duty time, and up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first. A Driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses any controlled substance, except when the use is at the instruction of a physician who has advised the driver that the substance does not adversely affect the ability to safely operate a CMV.**

## IV. Prohibited Conduct

If a Covered Individual engages in the conduct proscribed below, such person is considered to have engaged in "Prohibited Conduct." A Covered Employee who engages in Prohibited Conduct will be subject to disciplinary action as set forth in Section VIII (Disciplinary Procedures) of these Procedures. "Prohibited Conduct" is any action which violates the following:

### A. Alcohol Concentration

No Covered Individual 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 employer having knowledge that a Covered Individual has an alcohol concentration of 0.04 or greater shall permit the Covered Individual to perform or continue to perform safety-sensitive functions.

---

<sup>1</sup> Inspection of equipment as required by 49 C.F.R. Sections 392.7 and 392.8

<sup>2</sup> As a sleeper berth is defined in 49 C.F.R. Section 393.76

**B. On-Duty Use**

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

**C. Pre-Duty Use**

No Covered Individual shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a Covered Individual has used alcohol within four hours shall permit a Covered Individual to perform or continue to perform safety-sensitive functions.

**D. Use Following an Accident**

No Covered Individual required to take a post-accident alcohol test under §382.303 shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

**E. Refusal to Submit to a Required Alcohol or Controlled Substances Test**

1. No Covered Individual shall refuse to submit to a pre-employment controlled substance test, a post-accident alcohol or controlled substance test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substance test, a return-to-duty alcohol or controlled substances test, or a follow-up alcohol or controlled substance test<sup>3</sup>.
2. A refusal to submit to an Alcohol or Controlled Substances test means that a Covered Individual (a) fails to provide adequate breath for Alcohol testing without a valid medical explanation after he or she received notice of the requirement for breath testing , (b) 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 , or (c) engages in conduct that clearly obstructs the testing process.
3. A refusal to submit to an Alcohol or Controlled Substances test shall result in the employee being prohibited from performing Safety-Sensitive Functions, including driving a CMV. Such prohibition may have additional adverse effects on the driver's employment status inasmuch as it affects the driver's ability to perform job-related employment functions. Other laws, regulations, and University Policies may thus be implicated.

**F. Controlled Substance Use**

1. No Covered Individual shall report for duty or remain on duty requiring the performance of safety sensitive functions when the Covered Individual uses any drug or substance identified in 21 CFR 1308.11 Schedule I.

---

<sup>3</sup> For more detailed explanation of the requirements of federal law, please consult 49 C.F.R. 382.301, .303, .305, .307, .309, and .311.

2. No Covered Individual shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the Covered Individual 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 Covered Individual's medical history and has advised the Covered Individual that the substance will not adversely affect the Covered Individual's ability to safely operate a commercial motor vehicle.
3. No employer having actual knowledge that a Covered Individual has used a controlled substance shall permit the Covered Individual to perform or continue to perform a safety-sensitive function.
4. An employer may require a Covered Individual to inform the employer of any therapeutic drug use.

#### **G. Controlled Substance Testing**

No Covered Individual shall report for duty, remain on duty or perform a safety-sensitive function, if the Covered Individual tests positive or has adulterated or substituted a test specimen for controlled substances. No employer having knowledge that a Covered Individual has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the Covered Individual to perform or continue to perform safety-sensitive functions.

### **V. Tests Required**

Covered Individuals will be tested for Alcohol and/or Controlled Substances under at least the following circumstances<sup>4</sup>.

#### **A. Pre-employment Controlled Substance Testing (Post-offer/pre-duty)**

1. Prior to the first time a Covered Individual performs Safety-Sensitive Functions for the University, the Covered Individual shall undergo testing for Controlled Substances as a condition prior to being used. The University is prohibited from allowing a Covered Individual whom the University intends to hire or use, to perform a Safety-Sensitive Function unless the Covered Individual has been administered a Controlled Substances test and has received a test result from the Medical Review Officer indicating a verified negative test result.
2. Offers of employment in positions, which include the performance of Safety-Sensitive Functions, will be conditional and the University will withdraw an offer of employment which has been extended to an individual who tests positive in pre-employment (post-offer/pre-duty) controlled substance testing. Refusal to submit to a Controlled Substances test will be deemed voluntary resignation of employment.

---

<sup>4</sup> For more detailed explanation of the requirements of federal law, please consult 49 C.F.R. 382.301, .303, .305, .307, .309, and .311.

3. The University, through the Director of Human Resources, or designee, will request information from previous employers regarding any positive Controlled Substances test results and any refusals to be tested within the preceding two years.
  - i. A written Consent form signed by the Covered Employee authorizing the release of testing information will be sent to each of the employee's previous employers for the preceding three-year period. The Director must receive and review this information no later than 14 calendar days after the first time a Covered Employee performs a Safety-Sensitive Function.
  - ii. If it is not feasible to obtain and review testing information from previous employers within 14 calendar days, the Covered Employee shall no longer perform safety sensitive functions after the 14 days have passed.
  - iii. The Director must obtain information on the employee's subsequent Substance Abuse Professional written evaluation and the results of all tests following successful return to duty, if any of the test information obtained from previous employers shows : a) a verified positive Controlled Substances test result, or b) refusal of the employee to be tested;
  - iv. The University shall notify a Covered Employee of the results of a pre-employment Controlled Substances test, if the Covered Employee requests such results within 60 calendar days of being notified of the disposition of the employment application.
4. Certain exceptions for pre-employment Controlled Substances testing exist under the federal regulations<sup>5</sup>. Individuals who would otherwise be covered by these Procedures are responsible for informing the University that they are covered by an exception and for providing the University with information and documentation sufficient for the University to confirm eligibility for the exception cited by the driver.

#### **B. Post-Accident Testing**

1. A Covered Individual must notify his/her supervisor and the Director of Human Resources of all accidents.
2. As soon as practicable following an occurrence involving a CMV operating on a public road in commerce, the University shall test for Alcohol and Controlled Substances for each surviving Covered Individual:
  - a. Who was performing Safety-Sensitive Functions with respect to the vehicle, if the accident involved the loss of human life; or
  - b. 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:

---

<sup>5</sup> Please see 49 C.F.R. 382.310(c).

- i. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - ii. 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. The Covered Individual who is subject to post-accident testing must remain readily available for such testing or may be deemed by the University to have refused to submit to testing. Nothing in these Procedures shall be construed to require the delay of necessary medical attention for injured people following an accident or prohibit a Covered Individual from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to prohibit or delay a driver from obtaining necessary medical care.
4. If an Alcohol test is not administered within 2 hours after the accident, the Covered Employee's supervisor will prepare a **Delay of Test** report stating the reasons why the Alcohol test was not timely administered. The Report will be forwarded to and filed by the Director. All attempts to administer the Alcohol test will cease if it is not completed within 8 hours following the accident and the Covered Employee's supervisor will prepare and forward to the Director a report stating the reasons why the test was not timely administered.
5. If a controlled substance test is not administered within 32 hours following an accident, attempts to test for Controlled Substances will cease and the Covered Employee's supervisor will prepare a report stating the reasons why the Controlled Substances test was not timely administered. The report will be forwarded to and filed by the Director.

### C. Random Testing

1. Covered Individuals will participate in unannounced random Alcohol tests and Controlled Substances tests. The selection of Covered Individuals to be tested shall be made by a scientifically valid method which assures that each Covered Individual has an equal chance of being tested each time selections are made.
  - a. The minimum annual percentage rate for random alcohol testing is 10 percent (10%) of the average number of Covered Individual positions (subject to change).
  - b. The minimum annual percentage rate for random controlled substances testing shall be 50 percent (50%) of the average number of Covered Individual positions (subject to change).
2. Each Covered Individual who is notified of selection for random Alcohol and/or Controlled Substance testing shall proceed to the test site immediately and must bring photo identification; provided, however, that if the Covered Individual is performing a Safety-Sensitive Function, other than driving a CMV, at the time of notification, the Covered Individual shall cease to perform the Safety-Sensitive Function and proceed to the testing site as soon as possible.

3. A Covered Individual shall only be tested for Alcohol while performing Safety-Sensitive Functions, just before the Covered Individual is to perform Safety-Sensitive Functions, or just after the Covered Individual has ceased performing such functions.
4. If a Covered Individual selected for random testing is unavailable for legitimate reasons (e.g. vacation, traveling, etc.), the Director shall document this by noting the specific reasons and another name may then be randomly selected.

#### **D. Reasonable Suspicion Testing**

1. Alcohol Testing
  - a. The University shall require a Covered Individual to submit to an Alcohol test when the University has a reasonable suspicion that the Covered Individual has engaged in Prohibited Conduct as proscribed in Section IV of these Procedures concerning Alcohol.
    - i. "Reasonable suspicion" requires that there be a reasonable and clear belief that a Covered Individual is using Alcohol on the basis of specific, contemporaneous, articulable physical, behavioral, or performance indicators. Evidence of repeated errors on the job, rule violations or unsatisfactory attendance patterns, if coupled with a specific event indicating probable use, will provide cumulative evidence to support a decision to test.
  - b. A Covered Individual may be directed by the University to undergo reasonable suspicion testing only while the Covered Individual is performing Safety-Sensitive Functions, just before the Covered Individual is to perform Safety-Sensitive Functions, or just after the Covered Individual has ceased performing Safety-Sensitive Functions.
  - c. Reasonable suspicion testing is authorized only if the required observations are made by a trained supervisor. The supervisor must attempt to find another trained supervisor or other trained University official to corroborate the observations, and such corroboration must be in writing using the. The supervisor must then escort the employee to the designated collection site. A **Reasonable Suspicion Determination Checklist** shall be completed describing the basis for the determination for testing and faxed to the Director at 885-3602 to initiate the testing process, with the original report subsequently mailed to the DER at 875 Perimeter Drive MS 4332, Moscow, Idaho 83844-4332.
  - d. If an Alcohol test under this section is not administered within two (2) hours following the observations, the reasons for not meeting this requirement will be recorded by the Observer and kept on file with the Director. If the Alcohol test is not administered within eight (8) hours of the observation, attempts to administer the test will cease and the reasons for not meeting the requirement will be recorded by the Observer and kept on file with the DER.
  - e. If the Observer is unable to obtain a reasonable suspicion Alcohol test, the Covered Employee may not remain on, or return to, duty if the employee appears to be under

the influence of, or impaired by, Alcohol as indicated by specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

- i. In this situation, the employee will only be allowed to return to work after an Alcohol test shows a concentration less than 0.02 or twenty-four hours have elapsed since the reasonable cause behavior was observed and with approval of the supervisor.
- ii. Except as provided in this section, the University shall not take any action against a Covered Employee based solely on the Covered Employee's behavior and appearance, with respect to Alcohol use, in the absence of an Alcohol test, unless the University has authority independent of 49 C.F.R. Part 382 to do so.

## 2. Controlled Substances Testing

- a. The University shall require a Covered Employee to submit to a Controlled Substances test when the University has a reasonable suspicion that the Covered Employee has engaged in Prohibited Conduct regarding substance abuse as proscribed in Section IV of these Procedures concerning Controlled Substances.
  - i. "Reasonable suspicion" requires that there be a reasonable and clear belief that a Covered Employee is using Controlled Substance on the basis of specific, contemporaneous, articulable physical, behavioral, or performance indicators. Evidence of repeated errors on the job, rule violations or unsatisfactory attendance patterns, if coupled with a specific event indicated probable use, will provide cumulative evidence to support a decision to test.
- b. Reasonable suspicion testing is authorized only if the required observations are made by a trained supervisor, the supervisor must attempt to find another trained supervisor or other trained University official to corroborate the observations, and such corroboration must be in writing. The supervisor must then escort the employee to the designated collection or test site. A reasonable suspicion document shall be completed describing the basis for the determination for testing and faxed to the Director at 885-3602 to initiate the testing process, with the original report subsequently mailed to the DER at 875 Perimeter Drive MS 4332, Moscow, Idaho 83844-4332.
- c. A written record must be signed by the supervisor making the observations leading to a Controlled Substance test within 24 hours of the observed behavior or before the results of the controlled substance test are released, whichever is earlier.

## E. Return to Duty and Follow-up Testing:

1. The University will ensure that Covered Employees who have engaged in Prohibited Conduct and tested positive for Controlled Substances or found to have an Alcohol concentration of 0.04 or greater are immediately disqualified from performing a Safety-Sensitive Function.

2. After the SAP has determined that the employee has successfully complied with prescribed education and/or treatment but before a Covered Employee returns to duty requiring the performance of a Safety-Sensitive Function, the Covered Employee shall undergo a return-to-duty Alcohol test with a result indicating an Alcohol concentration of less than 0.02.
3. After the SAP has determined that the employee has successfully complied with prescribed education and/or treatment but before a Covered Employee returns to duty requiring the performance of a Safety-Sensitive Function, the Covered Employee shall undergo a return-to-duty Controlled Substance test with a result indicating a verified negative result for controlled substance use.
4. Under certain circumstances<sup>6</sup>, a driver will be subject to unannounced follow-up Alcohol and/or Controlled Substances testing as directed by a substance abuse professional<sup>7</sup>. Follow-up Alcohol testing shall be conducted only when the Covered Employee is performing Safety-Sensitive Functions, just before the Covered Employee is to perform Safety-Sensitive Functions, or just after the Covered Employee has ceased performing such functions.

## VI. Testing Procedures

### A. Urinalysis Drug Testing

The United States Department of Transportation, along with the United States Department of Health and Human Services and the Department of Labor, has established program and procedure requirements that are generally accepted as the “gold standard” for drug and alcohol testing programs. These are the procedures listed in this handbook.

1. The Specimen Collection Process and Safeguards  
Once an employee is notified that he has been identified as requiring a test, he should proceed immediately to the collection site—the generally accepted time for transportation is 15-30 minutes. Once the employee arrives at the collection site, the following steps should be followed (Alcohol testing will be covered separately):
  - a. The collector will have prepared the collection site by ensuring all collection supplies are available, the area is properly secured, water sources are secured and a bluing agent has been placed in the toilet.
  - b. The collector will request that the employee present an acceptable picture ID. If the employee cannot produce positive identification, the collector must contact the Designated Employer Representative (DER) to verify the identity of the employee. The employee may also ask the collector to provide identification.
  - c. The collector must have an approved chain-of-custody form (CCF)—the DOT mandates the type of form for testing of transportation workers.

---

<sup>6</sup> Please see 49 C.F.R. 382.605

<sup>7</sup> Please see 49 C.F.R. 382.605

- d. The collector explains the basic collection procedures to the employee and reviews the instructions on the back of the CCF with the employee.
- e. The collector ensures that the required information is provided at the top of the CCF (the laboratory name and address; a pre-printed specimen ID number which matches the ID number on the specimen bottle seals; the employer's name, address, telephone, fax number; employee SSN or employee ID number; reason for test; drug test to be performed, collection site information and the Medical Review Officer's (MRO) name, address, phone & fax number.)
- f. The collector asks the employee to remove any unnecessary outer clothing (e.g., coat, jacket, hat, etc.) and to leave any briefcase, purse, or other personal belongings he or she is carrying with the outer clothing. The employee may retain his or her wallet.
- g. The collector directs the employee to empty his or her pockets and display the items to ensure that no items are present that could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the employee places the items back into the pockets and the collection procedure continues.
- h. The collector instructs the employee to wash and dry his or her hands, under the collector's observation, and informs the employee not to wash his or her hands again until after the employee provides the specimen to the collector. The employee must not be allowed any further access to water or other material that could be put into the specimen.
- i. The collector either gives the employee or allows the employee to select the collection kit or collection container. Either the collector or the employee, with both present, then unwraps or breaks the seal of the kit or collection container.
- j. The collector directs the employee to go into the room used for urination, and provide a specimen of at least 45 ml. The employee is instructed not to flush the toilet, and to return with the specimen as soon as possible after completing the void.
- k. After the employee gives the specimen to the collector, the collector must check the temperature of the specimen, check the specimen volume, and inspect the specimen for adulteration or substitution.
- l. If temperature, volume and the inspection are within acceptable ranges, the collector unwraps/opens the specimen bottles.
- m. The collector then pours at least 30 ml of urine from the collection container in a specimen bottle and places the lid/cap on the bottle. This will be the primary specimen or "A" bottle. The collector then pours at least 15 ml of urine into a second bottle and places the lid/cap on the bottle. This will be the "B" bottle used for the split specimen (should the "A" specimen test positive, the employee will have the option to have the split or "B" specimen tested to confirm the positive test result.).

- n. The collector must then remove the tamper-evident seals from the CCF and place them on each bottle, ensuring that the seal labeled "A" is placed on the primary bottle with at least 30 ml of urine and that the seal labeled "B" is placed on the bottle of 15 ml of urine. The employee is then requested to initial the seals. The employee must be present to observe the sealing of the specimen bottles. The collector can then tell the employee that he/she can wash their hands.
- o. The collector directs the employee to read, sign, and date the certification statement and provide date of birth, printed name, and day and evening contact telephone numbers in Step 5 on Copy 2 of the CCF.
- p. The collector completes the collector's portion of the chain of custody on the CCF by printing his or her name, recording the date and time of the collection, signing where indicated, and entering the specific name of the delivery or courier service transferring the specimen to the laboratory.
- q. The collector then ensures that all copies of the CCF are legible and complete. The collector removes Copy 5 from the CCF and gives it to the employee.
- r. The collector places the specimen bottles and Copy 1 of the CCF inside the appropriate pouches of the leak-resistant plastic bag, and seals both pouches. The collector then informs the employee that he/she may leave the collection site.
- s. The collector places the sealed plastic bag in an appropriate shipping container designed to minimize the possibility of damage during shipment and turns the container over to the shipping service to be transported to the laboratory.
- t. The collector then sends Copy 2 of the CCF to the MRO and Copy 4 to the DER. The collector retains Copy 3 of the CCF.

It should be noted that the entire collection process is designed to ensure the integrity of the specimen and assure the individual that the specimen being shipped to the laboratory is indeed his/her own. Under DOT guidelines, the collector must be trained and certified to do the collection. This certification must be renewed every 5 years. Throughout the process, only sealed/sterile containers are utilized and the individual is allowed to observe their unsealing and resealing. The employee is also present and observing every step the collector is taking. Indeed, the employee actually acknowledges the integrity of his/her collection by observing the process and then signing or initialing that it has been accomplished properly.

## 2. The Laboratory Drug Testing Process

The DOT requires that only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). All certified laboratories will follow the procedures and processes outlined in this manual.

Once the laboratory receives the specimen from the collection site, safeguards such as those found in the collection process are in place to ensure the privacy of the individual and the integrity of the testing process. Essentially all of the processes in the laboratory work

from a bar code system that, for all intents and purposes, eliminates the possibility of human error

There are always two tests before a specimen can be verified as positive. Those processes are referred to as an initial screening test and a completely separate confirmation test. The following briefly describes these two test processes.

a. The Initial Drug Test

An important safeguard of the drug testing process is the establishment of “cut-off” levels for each drug. This simply means that research has demonstrated that when the amount of drug found in a given specimen is at, or above, the established “cut-off” level, that level could not have been reached by other than intentional ingestion.

Every specimen must first be analyzed using a type of chemical testing called immunoassay testing. The testing chemicals themselves must have been approved for commercial distribution by the Food and Drug Administration (FDA). In this case, the initial immunoassay test is used to eliminate or “screen out” “negative” specimens from further consideration, and to identify the “presumptive” positive specimens that require a separate confirmation test. A specimen is considered “negative” if it contains no drug or its concentration of a drug is less than the cut-off level for that drug or drug class.

b. The Confirmation Test

All specimens identified as positive on the initial test must be confirmed positive using gas chromatography/mass spectrometry (GC/MS) before a positive result can be reported. GC/MS is a combination of two different analytical techniques. Gas chromatography physically separates the various substances that have been extracted from a specimen. Mass spectrometry is the technique used to provide a positive identification of substances that were separated by the gas chromatograph. This separation and measurement process will give a precise measurement of the amount of drug present in the specimen. The measurements are in parts per billion and extremely accurate.

c. Certified Laboratory Safeguards

To further ensure that the integrity of the testing process is maintained, laboratories conducting the tests are required to be “certified” by the U.S. Department of Health and Human Services. These “certified” laboratories must pass an initial inspection of their equipment and procedures before certification and then are subject to two compliance inspections each year. Should a laboratory fail to pass an inspection, it is required to correct any deficiencies and, depending on the deficiency, may lose its certification and ability to conduct drug testing.

Because a positive drug test can have a significant impact on an individual and his career, the Federal government has gone to great lengths to ensure the accuracy and safety of the drug testing process. In addition to establishing the standards for testing previously described, additional safeguards have been built into the testing system. These safeguards are collectively called “validity” testing. This testing requires the laboratory to perform additional tests to ensure that the specimen is indeed human

urine and that it has not been tampered with or adulterated with a foreign substance. The following tests are required on urine specimens:

- i. Specific Gravity—this test measures the concentration and amount of substances dissolved in the urine. If the concentration of solids in the urine is not above a certain level, the specimen is considered either dilute or substituted. This result may trigger the requirement for additional testing.
- ii. Creatinine—if the amount measured in urine is below the established level, the specimen is considered either diluted or substituted. This result may trigger the requirement for additional testing.
- iii. Nitrite—if the concentration of this chemical is above the established cutoff level, the specimen will be considered adulterated. This result may trigger the requirement for additional testing.
- iv. pH  $\leq 3$  or  $\geq 11$ —if the specimen is outside of these pH parameters, it will be considered adulterated. (pH is a measure of the level of acidity in the urine.) This result may trigger the requirement for additional testing.
- v. Substances not normally found in urine—if something is interfering with the testing process and prevents the laboratory from making a determination concerning presence or absence of drugs, the specimen may be considered adulterated. The laboratory may then conduct additional tests to determine what the substance is and/or send it to another certified laboratory for testing.

### 3. The Medical Review Process

DOT mandates that the laboratory test results be reported out to a Certified Medical Review Officer who is responsible for interpreting the test results, consulting with the donor if needed, and reporting them to the DER. A Certified Medical Review Officer is an MD or DO specifically trained in the interpretation of test results. This includes knowledge of substance abuse disorders and appropriate medical training, so that this professional is able to interpret and evaluate an individual's confirmed positive test result, in tandem with his medical history and any other relevant biomedical information.

The MRO performs the following functions:

- a. Receives all of the results of controlled substances tests from the laboratory.
- b. Reviews the CCF to ensure its accuracy.
- c. Reviews and interprets an individual's confirmed positive, adulterated, substituted, or invalid test result by reviewing the individual's medical history, including any medical records and biomedical information provided, and affording the individual an opportunity to discuss the test result. The MRO decides whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- d. Reports each verified test result to the DER.
- e. Maintains all necessary records and sends the test results to the DER.
- f. Protects the individual's privacy and testing program confidentiality.
- g. Contacts the individual directly (i.e., actually talks to the individual), on a confidential basis, to determine whether the individual wants to discuss the test result and provide a legitimate reason for the positive test. In making this contact,

the MRO must explain to the individual that, if he declines to discuss the result, he will verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable.

- h. Notifies individuals who have verified positive tests that they have 72 hours in which to request a test of the split specimen. If requested, directs the original testing laboratory, in writing, to ship the split specimen to another certified laboratory for analysis.
- i. If, after appropriate review, the MRO concludes that no legitimate medical reason exists for a confirmed positive test, and that the CCF and laboratory procedures were correct, the MRO must report the verified positive test and the identity of the substance(s) to the employer.

4. The Substance Abuse Professional (SAP)

Under DOT rules, any individual who has a verified positive controlled substances test result or has refused to be tested, must be immediately removed from his safety-sensitive position. In addition, he must be advised of the resources available to evaluate and resolve problems associated with controlled substances use, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs. The individual must also be evaluated by a SAP who shall determine what assistance the employee needs in resolving problems associated with controlled substances use.

Under DOT rules, a SAP evaluation is required when an employee has violated DOT drug and alcohol regulations. Employers are not required to provide a SAP evaluation or any subsequent recommended education or treatment for an individual who has violated the DOT drug and alcohol regulations. However, if the employer offers the employee an opportunity to return to his DOT covered duties, the employer must ensure, before the individual again performs that duty, that the employee receives an evaluation by an SAP and that the employee successfully complies with the SAP's evaluation recommendations.

**B. Evidential Breath Alcohol Testing**

The DOT mandates alcohol testing of covered safety-sensitive employees in certain situations.

1. The Evidential Breath Testing Device

An EBT is a breath testing device that is capable of measuring a person's blood alcohol concentration. It must be capable of conducting an air blank and performing an external calibration check. The EBT must:

- a. Produce a printed result in triplicate.
- b. Print a unique and sequential identifying number for each completed test, which the BAT and the employee are able to read before each test, and then print the number on each copy of the result.
- c. Print, on each copy of the result, the manufacturer's model or name for the device, the device's serial number, and the time the device performed the test.
- d. The EBT must have a manufacturer-developed quality assurance plan approved by the National Highway Traffic Safety Administration (NHTSA).

To protect the integrity of the test and to ensure accurate results, the procedures for conducting

an alcohol test are rigorous. Alcohol tests are considered invalid when the following occur:

- a. The external calibration check of the EBT produces a result outside the allowed tolerance levels.
- b. The BAT does not wait 15 minutes between the screening and confirmation tests.
- c. A valid air blank test that registers 0.00 is not performed before each confirmation test.
- d. The alcohol test form with the attached EBT printout is not completed correctly. Employee, STT, and BAT signatures, and relevant STT and BAT remarks are not included.
- e. The EBT fails to print the confirmation results, the sequential test number displayed by the device is not the same as the number on the printout, or the alcohol concentration displayed on the EBT is different from that which is printed out on the result.

## 2. The Collection Process

Alcohol tests should be conducted at a site that provides privacy to the employee being tested. The testing site must be secured, with no unauthorized access at any time when the Alcohol Screening Device (ASD) and/or the Evidential Breath Testing (EBT) Device is unsecured or when testing is occurring. The Breath Alcohol Technician (BAT) must conduct only one test at a time and must not leave the testing site while the preparations for testing or the test itself are in progress.

The following procedures must be used in conducting the test:

- a. The employee must provide positive identification to the Saliva Test Technician (STT) or BAT. The identification can be in the form of a company photo identification card, a driver's license, or identification by an employer representative.
- b. The BAT/STT must explain the testing procedures to the employee.
- c. The employee and BAT/STT must complete, date, and sign the alcohol testing form indicating that the employee is present and is providing a saliva or breath sample.
- d. The BAT will inform the employee of the need to conduct a screening test. The BAT must open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT.
- e. The BAT will instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until an adequate amount of breath has been obtained.
- f. Following the screening test, the BAT must show the employee the result displayed on the EBT or the printed result.
- g. If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test is reported to the employer as a negative test.
- h. If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.
- i. The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading.
- j. The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his

- mouth. The BAT will also instruct the employee not to belch (to the extent possible).
- k. The BAT will conduct an air blank test on the EBT before the confirmation test is administered. This test ensures there is neither residual alcohol in the device nor any alcohol in the air in the room.
  - l. The confirmation test is conducted using the same procedures as the EBT screening test utilizing a new mouthpiece.
  - m. The BAT will sign and date the form. The employee must sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive functions or operate a motor vehicle if the results are 0.02 or greater.
  - n. The BAT will transmit all results to the employer-designated representative in a confidential manner.
  - o. The DER will refer the employee to an SAP for evaluation.

### 3. The Initial Alcohol Test

Although a completely different process, the alcohol testing program also requires two separate tests to confirm a positive result. The initial sample must be collected through an Evidential Breath Testing Device (EBT) that is approved by the National Highway Traffic Safety Administration (NHTSA), an approved saliva device, or a non evidential breath test device [alcohol screening device (ASD)]. All screening tests must be performed by either a trained Breath Alcohol Technician (BAT), or a Saliva Test Technician (STT) that is trained and credentialed.

For tests conducted on a saliva device, the following invalidates the result:

- a. The result is read before 2 minutes or after 15 minutes from the time the swab is inserted into the device.
- b. The device does not activate.
- c. The device is used for a test after the expiration date printed on its package.
- d. The STT fails to note on the alcohol testing form that the test was conducted using a saliva device.

### 4. The Confirmation Alcohol Test

The confirmation test must be conducted between 15 and 30 minutes after the end of the screening or initial test. The confirmation test must be performed using an Evidential Breath Testing device (EBT) that has been classified as such by NHTSA. The test must be performed by a certified BAT.

## **VII. Consequences for Covered Employees Found to Have Engaged in Prohibited Conduct**

### **A. Removal From Safety-Sensitive Functions**

No Covered Employee shall perform safety-sensitive functions including driving a CMV, if the Covered Employee has engaged in Prohibited Conduct as proscribed in Section IV of these procedures.

### **B. Required Evaluation and Testing**

## **1. Evaluation Required**

When an employee has violated DOT drug and alcohol regulations, the employee cannot again perform any DOT safety-sensitive duties for the University until and unless they complete a Substance Abuse Professional evaluation, referral, and education/treatment process in accordance with 49 CFR part 40, subpart O.

## **2. Nature of Evaluation**

- a. Each Covered Employee who has engaged in Prohibited Conduct shall be advised by the University of resources available to the Covered Employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of Substance Abuse Professionals (SAP) and counseling and treatment programs.
- b. Each Covered Employee who engages in Prohibited Conduct shall be evaluated by a Substance Abuse Professional who shall determine what assistance, if any, the Covered Employee needs in resolving problems associated with alcohol misuse and controlled substances use.
- c. Before a Covered Employee returns to duty requiring the performance of a Safety-Sensitive Function, after engaging in Prohibited Conduct, the Covered Employee shall undergo a return-to-duty Alcohol test with a result indicating an Alcohol concentration of less than 0.02 if the Prohibited Conduct involved Alcohol, or a Controlled Substances test with a verified negative test result if the Prohibited Conduct involved a controlled substance.
- d. Each Covered Employee identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use shall:
  1. Be evaluated by a substance abuse professional to determine that the Covered Employee has properly followed any rehabilitation program prescribed under Section VII.B.1 of this section, and
  2. Shall be subject to unannounced follow-up Alcohol and Controlled Substances tests administered by, or scheduled by, the University, following the Covered Employee's return to duty.
    - a. The number and frequency of such follow-up test shall be as directed by the substance abuse professional, and shall consist of at least six (6) tests in the first 12 months following the Covered Employee's return to duty.
    - b. The University may direct the Covered Employee to undergo return-to-duty and follow-up testing for both alcohol and controlled substances if the Substance Abuse Professional determines that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular Covered Employee.
  3. Follow-up testing shall not exceed 60 months from the date of the Covered Employee's return to duty.
  4. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after the first six tests have been

administered, if the Substance Abuse Professional determines that such testing is no longer necessary.

- e. The University of Idaho may elect to reassign the Covered Employee who has tested positive for either Alcohol or Controlled Substances to a non-driving position, place the employee on Leave Without Pay (LWOP), or take disciplinary action, up to and including termination.
- f. The requirements of this Section VII.B.2 do not apply to applicants who refuse to submit to a pre-employment Controlled Substances test or who have a pre-employment Alcohol test with a result indicating an Alcohol concentration of 0.04 or greater or a Controlled Substances with a verified positive test result.

### **C. Other Alcohol Related Conduct**

- 1. No Covered Employee with an alcohol test result indicating a concentration of at least 0.02, but less than 0.04, shall perform or continue 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. Except as provided in this section, the University shall not take action against a Covered Employee based solely on test results showing an Alcohol concentration less than 0.04 unless the University has authority independent of 49 C.F.R. Part 382 to do so.
- 3. When a Covered Employee 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 Covered Employee receives an 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.
- 4. A covered employee who refuses to submit to a required alcohol test shall be deemed to have tested at a level above 0.04.

### **D. Other Potential Penalties**

- 1. Any employer or Covered Employee 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).

## **VIII. Disciplinary Procedures**

The federal law (49 CFR, Part 382) establishes the requirements for testing Covered Employees for the use of alcohol and controlled substances. However, the federal law does not prescribe what personnel actions or disciplinary action, if any, an employer may take against covered employees who engage in

conduct prohibited by the law. Any disciplinary action taken by the University of Idaho will be based on its independent authority as an employer and will be consistent with state and federal laws.

The following sections of the University of Idaho's Faculty Staff Handbook outline the University's procedures for disciplinary actions and appeals for employees.

1. 3910 & 3920, Dismissal of faculty and other exempt employees
2. 3930, Separation of classified employees
3. 3190, Diminished performance of employees
4. 3840, Procedures for faculty appeals
5. 3860, Grievance procedures for staff employees
6. 3880, Grievance procedures for student employees
7. 3340, Performance Evaluation of staff employees

## **IX. Records Management and Confidentiality**

### **A. Release of Information**

The University shall maintain the confidentiality of all records and reports in its custody that relate to these Procedures and Alcohol and Controlled Substances testing where required and to the extent permitted by law. Information may be released as follows:

1. Upon written request, a covered employee is entitled to copies of any records pertaining to his/her use of controlled substances or alcohol, including any records pertaining to his/her alcohol or controlled substances tests.
2. Copies of information on the results of alcohol and/or controlled substances testing program and any other information on the University's alcohol misuse and/or controlled substances use prevention program will be made available when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the University or any of its Covered Employees.
3. When requested by the National Transportation Safety Board as part of an accident investigation, the University of Idaho will disclose information related to the employer's administration of a post-accident alcohol and/or controlled substance test administered following the accident under investigation.
4. Records will be made available to a subsequent employer upon receipt of a written request from a current or previously Covered Employee.
5. The University may disclose information pertaining to a driver in a lawsuit, grievance or other proceeding initiated by or on behalf of the individual and arising from the results of an alcohol and/or controlled substances test, or from the employer's determination that the driver engaged in conduct prohibited by 49 CFR 382, Subpart B, of the law. (Proceedings may include, but are not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver.)

6. The University of Idaho may release information regarding a driver's records as directed by the specific, written consent of the Covered Employee authorizing release of the information to an identified person.

## **B. Period of Retention**

The University of Idaho will maintain records of its alcohol misuse and controlled substances use prevention programs as provided in 49 CFR, Section 382.401. The records will be maintained in a secure location with controlled access.

Records shall be maintained in accordance with the following schedule:

1. Five years. The following records shall be maintained for a minimum of five years:
  - a. Records of driver alcohol test results with results indicating an alcohol concentration of 0.02 or greater,
  - b. Records of driver verified positive controlled substances test results,
  - c. Documentation of refusals to take required alcohol and/or controlled substances tests,
  - d. Calibration documentation,
  - e. Driver evaluation and referrals, and
  - f. A copy of each annual calendar year summary required by s. 382.403.
2. Two years. Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) and training will be maintained for a minimum of two years.
3. One year. Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 will be maintained for a minimum of one year.

## **C. Types of Records**

The following specific records shall be maintained.

1. 1. Records related to the collection process:
  - a. Collection logbooks, if used;
  - b. Documents relating to the random selection process;
  - c. Calibration documentation for evidential breath testing devices;
  - d. Documentation of breath alcohol technician training;
  - e. Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests;
  - f. Documents generated in connection with decisions on post-accident tests;
  - g. Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or to provide a urine specimen for testing; and
  - h. Consolidated annual calendar year summaries as required by s. 382.403.
2. Records related to an employee's test results:
  - a. The employer's copy of the alcohol test form, including the results of the
  - b. test;

- c. The employer's copy of the controlled substances test chain of custody and control form;
  - d. Documents sent by the medical review officer to the employer;
  - e. Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part; and
  - f. Documents presented by a driver to dispute the result of an alcohol or controlled substances test administered under this part.
3. Records related to other violations of this part.
  4. Records related to evaluations:
    - a. Records pertaining to a determination by a substance abuse professional concerning a driver's need for assistance; and
    - b. Records concerning a driver's compliance with recommendations of the substance abuse professional.
  5. Records related to education and training:
    - a. Materials on alcohol misuse and controlled substance use awareness, including a copy of the employer's policy on alcohol misuse and controlled substance use;
    - b. Documentation of compliance with the requirements of s. 382.601, including the driver's signed receipt of education materials;
    - c. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion; and
    - d. Certification that any training conducted under this part complies with the requirements for such training.
  6. Records related to drug testing:
    - a. Agreements with collection site facilities, laboratories, medical review officers, and consortia;
    - b. Names and positions of officials and their role in the employer's alcohol and controlled substances testing program(s);
    - c. Quarterly laboratory statistical summaries of urinalysis required by s. 40.29(g)(6); and
    - d. The University of Idaho's drug testing policy and procedures.

**D. Location of records**

1. Contracted testing services. When alcohol and/or controlled substance testing is performed by a testing laboratory on a contractual basis, the laboratory will retain required records on the collection process such as, but not limited to, collection logbooks (if used), calibration documentation for evidential breath testing devices, and documentation of breath technician training. If the testing laboratory also provides the randomized list, they shall retain records on the random selection process.
2. Employer Records. All records that the University is required to retain will be maintained at the Human Resources office. The records will be made available for inspection at the Human Resources office within two business days after a request has been made by an authorized representative of the Federal Highway Administration.

## **X. Effect of Other Applicable Law on These Procedures**

Covered Individuals remain subject to all federal and state law, including the rules, regulations and policies of the Regents of the University of Idaho and the Faculty-Staff Handbook which do not conflict with these Procedures. In the event these Procedures conflict with applicable federal law, the University, at its sole discretion, will comply with said applicable law. These procedures do not prevent the University from disciplining, discharging, or refusing to hire a Covered Individual who has engaged in conduct prohibited by these Procedures if the University has authority independent of these Procedures and 49 C.F.R. Part 382 to do so.

## **XI. No Contract**

These Procedures do not constitute a contract between the University and its employees, and the University specifically disclaims any intent that the terms of these Procedures be a part of any contract it might have with its employees or others.

## **XII. Headings**

The headings contained in these Procedures are for reference purposed only and shall not in any way affect the meaning or interpretation of these Procedures.

## **XIII. Definitions**

The terms used in this policy are defined below. Where definitions have been taken from the federal regulations, references are provided. In some cases, definitions have been abbreviated or paraphrased for brevity. In the event of a dispute over a definition used or the interpretation of a federal rule, the official published federal rules will be used.

- A. **Alcohol** -- the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. (382.107)
- B. **Alcohol Concentration (or Content)** -- 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. (382.107)
- C. **Alcohol Test** -- a test conducted by a Breath Alcohol Technician (BAT), or any other person approved by the Department of Transportation rules, using an Evidential Breath Testing Device (EBT) to measure the amount of alcohol concentration in a volume of breath, or any other test used to detect the presence of alcohol that is approved by the Federal Highway Administration (FHWA).
- D. **Alcohol Use** -- the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol. (382.107)
- E. **Breath Alcohol Technician (BAT)** -- an individual who instructs and assists individuals in the alcohol testing process and is trained to operate the evidential breath testing device (EBT). (40.3)

F. **Canceled or Invalid Test** --

1. In drug testing, a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither a positive nor a negative test. A sample that has been rejected by a laboratory is treated the same as a canceled test.
2. In alcohol testing, a test that is deemed to be invalid under 40.79. It is neither a positive nor a negative test. (40.3)

G. **Commercial Motor Vehicle (CMV)** -- a motor vehicle or a combination of motor vehicles used in a commerce to transport passengers or property and having one or more of the following characteristics:

1. The vehicle is a single vehicle with a gross vehicle weight rating of 26,001 or more pounds, or the vehicle's registered weight or actual gross weight is more than 26,000 pounds.
2. The vehicle is a combination vehicle with a gross combination weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight rating, registered weight or actual weight of more than 10,000 pounds.
3. The vehicle is designed to transport or is actually transporting the driver and 15 or more passengers.
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposed of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (149 CFR 172, subpart F). (382.107)

H. **Confirmation Test** --

1. For alcohol testing, a confirmation test means a second test following a screening test with a result greater than 0.02 that provides quantitative data of alcohol concentration. Confirmation of the screening test must be made by an approved Evidential Breath Testing Device (EBT) (See definition of EBT below) (382.107)
2. For controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy. Gas Chromatography/ Mass Spectrometry (GC/MS) is the authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine. (382.107)

I. **Controlled Substance** -- Controlled substances include cocaine, marijuana, opiates, amphetamines, and phencyclidine and any other substance determined by the U.S. Department of Transportation to be a controlled substance.

- J. **Controlled Substance Test** -- a method for determining the presence of controlled substances in a urine sample using a scientifically reliable method performed in accordance with procedures specified in 49 CFR 40.
- K. **Covered Employee** -- all University employees whose job duties require a Commercial Drivers License (CDL).
- L. **Designated Employer Representative (DER)** -- the primary contact person in Human Resources designated to receive all information and/or reports relative to employees from the Medical Review Officer, the Breath Alcohol Technician, the Substance Abuse Professional and the laboratories.
- M. **Driver** -- any employee of the University of Idaho who is required to have and maintain a commercial driver's license (CDL) and who is subject to operating a commercial motor vehicle at the direction of, or with the consent of, the University. For the purposes of pre-employment only, the term driver includes a person applying to an employer to drive a commercial vehicle. (382.107)
- N. **Evidential Breath Testing Device (EBT)** -- is a device approved by the National Highway Traffic Safety Administration (NHTSA) and is used for the evidential testing of breath and placed on the NHTSA's "Conforming Products List (CPL) of Evidential Breath Measurement Devices". (40.3) [Note: Approved devices must be capable of printing out each test result and air blank, and must sequentially number each test.]
- O. **Follow-up Test** -- is an alcohol and/or controlled substances test administered to a covered employee who has violated the prohibitions of this policy and who has been permitted to return to duty after passing a return-to-duty alcohol and/or controlled substances test. (382.311)
- P. **Medical Review Officer (MRO)** -- A Medical Review Officer is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the University's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information. (40.3)
- Q. **On-Duty Time** -- 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. On-duty time includes all time spent providing a breath sample or primary urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident or follow-up testing as directed by the employer. On-duty time is defined in 49 CFR 395.2 as including:
  - 1. All time at a carrier 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 motor carrier;

2. All time inspecting equipment as required by 392.7 and 392.8 of this chapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
  3. All driving time as defined in the term driving time in this section;
  4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth as defined by the term sleeper berth of this section;
  5. 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;
  6. All time spent performing the driver requirements of 392.40 and 392.41 of this chapter relating to accidents;
  7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- R. **Performing (a safety-sensitive function)** -- 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. (382.107)
- S. **Post-Accident Test** -- an alcohol and/or controlled substances test administered to a covered employee following an accident when: (ref. 382.303 and 390.5)
1. The driver was performing safety-sensitive functions with respect to the vehicle involved in the accident and the accident involved the loss of human life; or
  2. The driver receives a citation under state or local law for a moving traffic violation arising from the accident; and (a) A person is injured and, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (b) One or more vehicles received disabling damage as a result of the accident, requiring the vehicle(s) to be towed from the scene of the accident; or
  3. The supervisor determines that the use of alcohol or controlled substances may have contributed to the accident and requests the driver to undergo testing based on "reasonable suspicion".
- T. **Pre-Employment Test** -- an alcohol and/or controlled substances test administered to an individual prior to the first time the individual performs a safety-sensitive function upon appointment to a position requiring the individual to hold a CDL or prior to the first time the individual performs a safety-sensitive function after having been laid off from a position requiring the individual to hold a CDL.

- U. **Random Test** -- an alcohol and/or controlled substances test administered to a driver who has been randomly selected by a scientifically valid method from among the pool of drivers subject to such tests.
  
- V. **Reasonable Suspicion Test** -- an alcohol and/or controlled substances test administered to a covered employee as a result of a trained supervisor's or other trained official's reasonable belief that the covered employee has violated the alcohol or controlled substances prohibitions of this policy. A reasonable suspicion determination must be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic use and/or withdrawal effects of controlled substances or alcohol. (382.307(a) and (b))
  
- W. **Refusal To Submit (to an alcohol or controlled substances test)** -- any of the following: (382.107)
  - 1. A driver fails to provide an adequate amount of breath during testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.
  - 2. A driver 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.
  - 3. A driver engages in conduct that clearly obstructs the testing process.
  - 4. A driver fails to be readily available for post-accident testing.
  - 5. A driver fails to report to, and undergo, alcohol and controlled substances testing at a collection site as required.
  
- X. **Return-To-Duty Test** -- a return to duty test is an alcohol and/or controlled substances test administered prior to a covered employee being permitted to return to duty when the covered employee has violated this policy. (382.309)
  
- Y. **Safety-Sensitive Function** -- (382.107) any of those on-duty functions set forth in 395.2 On-Duty Time, paragraphs (1) through (7). [See definition of On-Duty Time for the list of functions that are considered "safety-sensitive" for commercial drivers. Also see definition of performing (a safety sensitive function).]
  
- Z. **Screening Test (also known as an initial test)** --
  - 1. In alcohol testing, a screening test means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his or her system.
  - 2. In controlled substances testing, a screening test means an immunoassay screen to eliminate "negative" urine specimens from further consideration. (382.107)

AA. **Substance Abuse Professional (SAP)** -- a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or 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 substances-related disorders. (382.107)

BB. **Supervisor** -- a management or supervisory employee of the University.

## **XIV. Appendix A: Employee Assistance Plan**

### **A. Introduction**

The Employee Assistance Program (EAP) is a free, confidential service that provides eligible employees and their families with the opportunity to discuss personal problems with a professional counselor, receive unlimited telephone and internet access to resource and referral information, and obtain other self-help information.

You do not have to enroll in a medical plan to participate in the EAP. However, if you are enrolled in a medical plan, you may be able to maximize your benefits by accessing the free services of the EAP before using behavioral health benefits, which require you to pay a share of the cost.

### **B. Services Provided**

The EAP's Master's-level, licensed professional counselors are available to you and your family 24 hours a day, 365 days a year. Counselors can help with any situation that creates stress including:

1. Family Problems
2. Substance Abuse
3. Stress/anxiety
4. Legal Concerns
5. Personal relationships
6. Finances
7. Depression
8. Workplace
9. Grief
10. Aging
11. Anger Management
12. Abuse

### **C. Contact Information**

To access this benefit, simply call the EAP at (800) 999-1077 and identify yourself as a University of Idaho employee. You can receive up to 8 free sessions per situation. You can also visit the University of Idaho Benefits website at: <http://www.uidaho.edu/benefits/core-benefits/employeeassistanceplan> for more information.

## **XV. Forms**

# University of Idaho

## ***Post-Accident Alcohol and Controlled Substances – Delay of Test***

Post-Accident Testing must be performed as soon as possible after an accident that requires such testing. If Post-Accident controlled substances testing is not performed within 32 hours following the accident and Post-Accident alcohol testing is not performed within two hours after the accident and no later than eight hours after the accident, no further attempts to administer these tests may be taken.

If unable to conduct the testing within those time frames, please use this form to record the reasons the test(s) were not administered (to be completed by the supervisor).

**Employee Name (printed):** \_\_\_\_\_ /\_\_\_\_\_/\_\_\_\_\_  
Date of Accident

**Location of Accident:**  
\_\_\_\_\_  
\_\_\_\_\_

**Reason for Delay of Test(s):**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Supervisor Name  
Month/Day/Year

\_\_\_\_\_  
Witnessed by Name  
Month/Day/Year

# University of Idaho

## Reasonable Suspicion Determination Checklist

Employee Name: \_\_\_\_\_ V#: \_\_\_\_\_

Department: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Date of Observation: \_\_\_\_\_ Time of Observation: \_\_\_\_\_

Observing Supervisor's Name: \_\_\_\_\_

2<sup>nd</sup> Observing Supervisor's Name: \_\_\_\_\_

Supervisors: Document all pertinent behavior and physical signs and symptoms that leads you to reasonably believe the employee has recently used, or is under the influence of, alcohol and/or a prohibited controlled substance. Mark any applicable items on this form and describe in detail any additional facts or circumstances you have noted.

### PHYSICAL SIGNS AND/OR SYMPTOMS

#### Observable Indicators

*Please check all indicators listed below that are **CURRENTLY** present.*

Patterns of unusual behavior may occur but must be accompanied by one or more of the following observable and documented indicators of impairment to establish "reasonable cause."

- Presence or possession of substance that appears to be drugs or alcohol
- Presence or possession of paraphernalia that appears to be drug or alcohol related
- Odor of alcohol
- Odor of marijuana
- Dilated or constricted pupils or unusual eye movement
- Bloodshot or watery eyes
- Extreme fatigue or sleeping on the job
- Excessive sweating or clamminess to the skin
- Flushed skin
- Highly excitable or nervous
- Nausea or vomiting
- Unsteady bearing or other loss of physical control
- Slurred or incoherent speech
- Dizziness or fainting
- Shaking hands or body tremors/twitching
- Irregular or difficulty breathing
- Runny nose or sores around nostrils
- Inappropriate wearing of sun glasses
- Needle marks or "tracks"



**DETERMING REASONABLE CAUSE**

If you are able to document one or more of the observable indicators included on this form, ask yourself the following questions to establish reasonable cause.

Do not proceed with reasonable cause testing unless you can answer all of the following with a YES!

- 1. Has some form of impairment been shown in the employee’s appearance, actions and/or work performance? Yes No
- 2. Does the impairment result from the possible use of drugs and/or alcohol? Yes No
- 3. Are the facts reliable? Did you personally witness the situation? Yes No
- 4. Are the facts capable of explanation? Yes No
- 5. Are the facts capable of documentation? Yes No
- 6. Is the impairment current? Yes No

Reasonable cause established

Reasonable cause NOT established

Signature of Observing Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of 2nd Observing Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**Supervisor Instructions:**

- 1. If reasonable suspicion has been determined, arrange for testing following college protocol (refer to Flow Chart 1), and notify the Human Resources Department at 208.885.3638
- 2. Regardless of determination, send this original checklist with all applicable documentation within **24 hours** of the incident or accident to: Human Resources, MS 444332 or Fax (and then shred) to 208.885.3602. Call your HR Business Partner immediately. **Do not retain a copy for your records.**

TO BE COMPLETED BY THE HUMAN RESOURCES DEPARTMENT	
Employee underwent: <input type="checkbox"/> alcohol test <input type="checkbox"/> drug test at _____ <input type="checkbox"/> am <input type="checkbox"/> pm on _____(MM/DD/YYYY)	
Test was conducted at the following location:	
Employee refused to test: <input type="checkbox"/> Yes <input type="checkbox"/> No	Employee was referred to EAP: <input type="checkbox"/> Yes <input type="checkbox"/>

# University of Idaho

## Prior Testing History Release of Information

Employee Name (printed): \_\_\_\_\_ SSN# \_\_\_\_\_

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in *Section I-B*, to the employer listed in *Section I-A*. This release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in *Section II-A* by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug tests;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. Documentation, if any, of completion of the return-to-duty process following a rule violation.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

---

### Section I. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

**I-A.** New Employer Name: University of Idaho

Address: 875 Perimeter Drive, MS 4332 Phone: 208-885-3050/208-885-3638  
Moscow, ID 83832 Fax: 208-885-3602

Designated Employer Representative (DER): Alex Martin, HR Background Check Coordinator or Brandi Terwilliger, Director of HR

**I-B.** Previous Employer Name: \_\_\_\_\_ Dates of Employment: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
\_\_\_\_\_ Fax: \_\_\_\_\_

Designated Employer Representative (DER): \_\_\_\_\_

---

### Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

**II-A.** In the three years prior to the date of the employee's signature, for DOT-regulated testing:

1. Did the employee have alcohol tests with a result of 0.04 or higher?  
Yes \_\_\_ No \_\_\_ Date: \_\_\_/\_\_\_/\_\_\_ (mm/dd/yy)
2. Did the employee have verified positive drug tests?  
Yes \_\_\_ No \_\_\_ Date: \_\_\_/\_\_\_/\_\_\_ (mm/dd/yy)
3. Did the employee refuse to be tested?  
Yes \_\_\_ No \_\_\_ Date: \_\_\_/\_\_\_/\_\_\_ (mm/dd/yy)
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations?  
Yes \_\_\_ No \_\_\_ Date: \_\_\_/\_\_\_/\_\_\_ (mm/dd/yy)
5. Did a previous employer report a drug and alcohol rule violation to you?  
Yes \_\_\_ No \_\_\_ Date: \_\_\_/\_\_\_/\_\_\_ (mm/dd/yy)
6. If you answered —yes|| to any of the above items, did the employee complete the return-to-duty process?  
Yes \_\_\_ No \_\_\_ Date: \_\_\_/\_\_\_/\_\_\_ (mm/dd/yy)

\*\*\*NOTE: If you answered "yes" to item 5, you must provide the previous employer's report. If you answered "yes" to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

#### Preparer's Information

Name (printed): \_\_\_\_\_ Title: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

Preparer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# University of Idaho

## *Employee Acknowledgment Form*

I acknowledge that I have received the University of Idaho's Alcohol and Controlled Substance Testing Procedures. I also acknowledge that I have received the University's Post-Accident Instructions. I understand that the Director of Human Resources is the University's designated representative to whom questions regarding this policy may be directed. He/she may also designate an alternate representative to assist in answering questions regarding the procedures. I understand that the terms described in these procedures may be altered, amended or changed by the University of Idaho to comply with the Federal Omnibus Transportation Employee Testing Act (OTETA) of 1991 and its implementing regulations, with or without prior notice. I further understand that any violation of this policy may subject me to discipline, up to and including termination.

Employee Name (Printed): \_\_\_\_\_ Date: \_\_\_\_\_

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

Supervisor Name (Printed): \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_

**Please return completed forms to alexmartin@uidaho.edu**