

UNIVERSITY OF WISCONSIN STEVENS POINT

ALCOHOL AND CONTROLLED SUBSTANCES

TESTING POLICY

January 1, 1996

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January 1, 1996

I. GENERAL

- A. Background** - On October 28, 1991, President Bush signed the Omnibus Transportation Employee Testing Act (OTETA) (The Act) of 1991 as part of the 1992 Department of Transportation and Related Agencies Appropriations Act. In compliance with the requirements of the Omnibus Act, the Federal Highway Administration (FHWA) adopted regulations (49 CFR, Part 382), requiring employers to test employees with a commercial driver's license (CDL's) for the use of alcohol and controlled substances. The purposes of the Act is to deter misuse of alcohol and controlled substances by drivers of commercial motor vehicles.
- B. Overview of Policy** - In order to minimize the impact of the misuse of alcohol or drugs and to implement the Federal requirements, the University of Wisconsin Stevens Point is adopting and implementing this policy on testing of employees required to have a commercial drivers license. This policy is intended to be consistent and in compliance with the U.S. Department of Transportation Federal Highway Administration's drug and alcohol testing rules, regulations and procedures contained in Title 49 CFR, Part 382.

This document is intended to provide a general overview of the federal law and its application to employees at the University of Wisconsin Stevens Point. It includes a definition of commonly used terms and identifies prohibited conduct, the testing requirements, testing procedures, and consequences for covered employees. Several appendices provide more detailed information for managers, supervisors and unit personnel representatives with responsibilities for administering the policy.

Nothing herein shall preclude the University of Wisconsin Stevens Point 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 Wisconsin Stevens Point has work rules which prohibit the possession or use of alcohol and controlled substances at the work site. This policy supplements existing University of Wisconsin work rules.

II. POLICY

It is the desire and intent of the University of Wisconsin Stevens Point to ensure that the persons whom it serves receive safe and efficient services and that all students, faculty and employees are provided with a safe work environment. In order to achieve this, it is the University of Wisconsin Stevens Point's policy to:

- A. Assure that employees are not impaired in their ability to perform assigned duties;
- B. Create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse;
- C. Prohibit the unlawful manufacture, distribution, dispensing, possession or use of controlled substances;
- D. Encourage employees to seek professional assistance any time alcohol or drug misuse effects their ability to perform their assigned duties; and
- E. Comply with the federal Omnibus Transportation Employee Testing Act of 1991.

If there is a conflict between this policy and any modifications or binding interpretations of the Federal regulations, those modifications and interpretations shall prevail.

III. DESIGNATED REPRESENTATIVE

The Director of Risk Management will administer and ensure compliance with the Omnibus Transportation Employee Testing Act of 1991 (The Act) for the University of Wisconsin Stevens Point and will be the designated authority concerning administration of the policy. The Director of Risk Management may, in turn, designate an individual as the University's primary representative as well as additional alternate representatives to assist as needed in administering the program. See Appendix C for the name(s) of designated management representatives.

IV. APPLICABILITY

- A. **General** - This policy applies to all University of Wisconsin Stevens Point employees, including faculty, academic and classified staff, and students, whose job duties require possession of a commercial driver's license (CDL) as well as applicants for, and employees moving into positions requiring a CDL.
- B. **Periods of Compliance** - 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. On-duty time includes: [§395.2(1)-(7)]

1. All time spent at a facility waiting to be dispatched;
2. All time inspecting or servicing the vehicle;
3. All driving time or time spent at the driving controls of a commercial vehicle in operation;
4. All time spent loading, unloading, or supervising the loading or unloading of a vehicle including completion of any related paperwork;
5. All time performing those duties required of a driver involved in a vehicle accident; or
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 in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

V. 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** -- means 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)** -- 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. (§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** -- means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol. (§382.107)

- E. **Breath Alcohol Technician (BAT)** -- means 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** -- means:
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** -- means 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** -- means 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** -- means all University employees whose job duties require a Commercial Drivers License (CDL).
- L. **Divisional Representative (DR)** -- means the primary contact person designated to receive information and/or reports relative to employees of a specific College or Division from the Medical Review Officer, the Breath Alcohol Technician, the Substance Abuse Professional and the laboratories. (Also, see definition for UW Stevens Point, Designated Representative (UDR).)
- M. **Driver** -- means any employee of the University of Wisconsin Stevens Point 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** -- means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. 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)** -- means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions. (§382.107)
- S. **Post-Accident Test** -- means 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** -- 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. (*Amended May, 1996.*)
- U. **Random Test** -- means 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** -- means 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)** -- means 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) means 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)** -- means 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)
- AB. **Supervisor** -- A management or supervisory employee of the University.
- AC. **Trained Supervisor or Trained Official** -- A trained supervisor or a trained official is any University of Wisconsin Stevens Point supervisor or management employee who has received the minimum required training in identifying the signs and symptoms of alcohol abuse and/or controlled substance abuse.
- AD. **UW Stevens Point, Designated Representative (UDR)** -- means the primary contact person at the **Risk Management Office** 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. (Also, see definition for Divisional Representative (DR).)

VI. PROHIBITED CONDUCT

- A. **Alcohol concentration** - A driver is prohibited from reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No supervisor or manager having actual knowledge that a driver has an alcohol content of 0.04 or greater shall permit a driver to perform or continue to perform safety-sensitive functions. Drivers are prohibited from performing safety-sensitive functions for 24 hours following an alcohol test result indicating an alcohol concentration of 0.02 or greater but less than 0.04.

- B. **Alcohol possession** - A driver is prohibited from being on duty or operating a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. Supervisors or managers having actual knowledge that a driver possesses unmanifested alcohol may not permit a driver to drive or continue to drive a commercial vehicle.

- C. **On-duty use** - A driver is prohibited from using alcohol while performing safety-sensitive functions. No supervisor or manager 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.

- D. **Pre-duty use** - A driver is prohibited from performing safety-sensitive functions within four (4) hours after using alcohol. No supervisor or manager having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions. *(NOTE: Employees are cautioned that refraining from alcohol for four (4) hours before reporting for duty may not result in a negative test).*

- E. **Use following an accident** - A driver required to take a post-accident alcohol test is prohibited from using alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first. *(See requirements for post-accident testing in Section IX, C.)*

- F. **Refusal to submit to a required alcohol or controlled substances test** - A driver is prohibited from refusing to submit to a post accident, random, reasonable suspicion, return-to-duty or follow-up alcohol or controlled substances test required under the law. No supervisor or manager shall permit a driver who refuses to submit to such test to perform or continue to perform safety-sensitive functions.

- H. **Controlled substances use**
 - 1. A driver is prohibited from reporting for duty or remaining on duty when the driver uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect their ability to safely perform their duties.

2. No supervisor or manager 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.
- I. **Controlled substances testing** - A driver is prohibited from reporting for duty, remaining on duty, or performing a safety-sensitive function if the driver tests positive for controlled substances. No employer 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.

VII. OTHER REQUIREMENTS

1. Covered employees are required to sign an Employee Acknowledgment Form to acknowledge receipt of the University's Alcohol and Controlled Substances Testing Policy and associated materials. (Ref: 49 CFR §382.601(d))
2. Covered employees are required to notify their supervisor if they are convicted of any moving traffic violation or any state laws or local ordinances relating to motor vehicle traffic control, other than parking violations. Notice shall be given within 30 days after the conviction. (Ref: §343.245(2)(a) Wis Stats.)
3. Covered employees are required to notify their supervisor if their commercial drivers license is suspended, revoked, or cancelled by a state, or if they lose their CDL driving privileges for any period, including being disqualified or subject to an out-of-service order. Notice shall be given before the end of the first business day after the day on which the employee receives notice of the suspension, revocation, cancellation, disqualification or out-of-service order. (Ref: §343.245(2)(b) Wis Stats.)
4. Before performing work-related duties, covered employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug which contains any amount of alcohol or which carries a warning label that indicates the employee's mental function, motor skills, or judgment may be adversely affected by the use of this medication. (Ref: 49 CFR §382.213(a)(c))

NOTICE

Before performing an alcohol or controlled substances test under the requirements of the Department of Transportation rules and regulations, covered employees being tested shall be notified that the alcohol and/or controlled substances test is required by 49 CFR Part 382.

TESTING REQUIREMENTS

- A. **General** - The University of Wisconsin Stevens Point will conduct (1) pre-employment, (2) post-accident, (3) random, (4) reasonable suspicion, (5) return to duty, and (6) follow up testing of drivers for the misuse of alcohol or use of controlled substances in compliance with the requirements of 49 CFR Part 382. All alcohol and controlled substances testing will comply with the procedures of Title 49 CFR Part 40.
1. Except for pre-employment and return-to-duty testing, drivers shall be subject to alcohol testing only while the driver is performing a safety-sensitive function, just before the driver is to perform a safety-sensitive function, or just after the driver has ceased performing a safety-sensitive function.
 2. Controlled substances tests required to be administered to drivers may be administered at any time while the driver is at work for the University of Wisconsin.
- B. **Pre-employment testing** (Effective January 1, 1996.)
1. Upon the conditional offer of a position requiring a CDL, and prior to being assigned to perform any safety-sensitive functions, the prospective employee will be scheduled for controlled substances testing. The term prospective employee includes applicants for positions requiring a CDL and current University employees who move from a position not requiring a CDL to one which requires such a license. Employees who return to work after a layoff period during which they are not subject to random testing will also be required to undergo controlled substances testing before beginning work. *(Amended May, 1996.)*
 2. No driver shall perform a safety-sensitive function unless the driver has received a controlled substances test result from the Medical Review Officer (MRO) indicating a verified negative test result. *(Amended May, 1996.)*
 3. *(Deleted per May, 1996 Amendment.)*
 4. As a condition of employment, an individual applying for a position requiring a CDL shall provide the University of Wisconsin Stevens Point with written authorization for previous employers to release to the University, all records from the previous two years of alcohol tests results of 0.04 or greater, positive controlled substances test results, and records of the individual's refusal to test, administered in accordance with the FHWA's regulations regarding alcohol use and drug testing. If this information is not received by the University within 14 days following the first time the driver performs a safety-sensitive function for the University, the driver shall be prohibited from performing safety-sensitive functions.

C. **Post-accident testing** - As soon as practicable following an accident involving a commercial motor vehicle, each surviving driver shall undergo alcohol and controlled substance testing if:

1. The driver was performing a safety-sensitive function with respect to the vehicle, if 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".

D. **Random testing**

1. No fewer than 10% of the average number of positions required to have a CDL shall undergo random alcohol testing each calendar year. (*DOT Federal Highway Administration effective January 1, 1998.*)
2. No fewer than 50% of the average number of positions required to have a CDL shall undergo random controlled substance testing each calendar year.

Note: The minimum annual percentage rates for alcohol and controlled substance testing may be adjusted annually by the Administrator of the Federal Highway Administration (FHWA). If the minimum percentage rates are changed, the University of Wisconsin Stevens Point will adjust its testing program to comply with the federal requirements.

3. The selection of drivers for random testing, the timing and frequency of random tests, and the number of drivers to be tested on any given day shall be determined by the University of Wisconsin Stevens Point through the University's vendor, Alere Toxicology Services. The selection of drivers for random testing shall be made by a scientifically valid method. *Each driver shall have an equal chance of being selected for testing each time selections are made.*
4. The testing will be unannounced and will be dispersed throughout the calendar year.

5. When randomly selected, an employee may be required to submit to either an alcohol or controlled substance test, or both.
6. Drivers who are notified of selection for random alcohol and/or controlled substances testing shall be required to proceed to the test site immediately after being notified. Testing should commence within two (2) hours of notification.

E. Reasonable suspicion testing

1. A driver may be required to undergo alcohol and/or controlled substance testing if the employing department has reasonable suspicion that he/she has violated the prohibitions of these rules, or if the employee's behavior and appearance indicate alcohol misuse or use of controlled substances.
2. A determination that a reasonable suspicion exists that a driver has violated the alcohol prohibitions must be based on observations made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy.
3. No driver shall be subject to reasonable suspicion alcohol testing later than 8 hours following the determination that reasonable suspicion exists to require the driver to undergo such test.
4. The trained supervisor or trained management official who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.
5. A written record shall be made of the observations leading to a controlled substances reasonable suspicion test and shall be signed by the trained supervisor or trained management official who made the observations. The written record shall be made within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

F. Return-to-duty testing

1. If a driver has an alcohol test result indicating an alcohol concentration of 0.02 or greater, but less than 0.04, the driver shall be prohibited from performing a safety-sensitive function for a minimum of 24 hours.
2. A driver who has undergone an alcohol test with a result of 0.04 or greater or who has a confirmed positive test for controlled substances, shall not be permitted to perform a safety-sensitive function unless:
 - a. The driver has been evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the driver needs

in resolving problems associated with alcohol misuse and controlled substances use; and

- b. Following a determination by a substance abuse professional (SAP) that the driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver has complied and remains in compliance with any and all prescribed or recommended rehabilitation and/or treatment programs.
- c. When appropriate, the driver has undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the driver has violated the alcohol prohibitions; and
- d. When appropriate, the driver has undergone a return-to-duty controlled substances test with a result indicating a verified negative result if the driver has violated the controlled substances prohibitions.
- e. The driver shall be subject to such return-to-duty testing for both alcohol misuse and use of controlled substances if the substance abuse professional determines testing for both alcohol and controlled substances is recommended.

G. Follow-up testing

A driver who has undergone an alcohol test with a result of 0.04 or greater or who has a confirmed positive test for controlled substances, who is subject to, and has complied with the return-to-duty testing provisions, and who has been permitted to return to work shall be subject to the following:

- 1. The driver must have been evaluated by a substance abuse professional (SAP) who will have determined what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substances use; and
- 2. The driver shall be subject to unannounced follow-up testing;
- 3. The number and frequency of such tests shall be determined by the substance abuse professional, and shall consist of at least six (6) tests in the first 12 months following the driver's return to duty;
- 4. The substance abuse professional (SAP) may terminate such tests at any time after the first six tests has been administered if he or she determines the tests are no longer necessary. Follow-up testing shall not exceed 60 months after the driver's return to work;

5. The driver shall be subject to such follow-up testing for both alcohol misuse and use of controlled substances if the substance abuse professional determines testing for both alcohol and controlled substances is recommended.

X. TESTING PROCEDURES

Employees and applicants will be referred by the University of Wisconsin Stevens Point to Saints Health Services for Business or a designated location that has been selected to provide alcohol and controlled substances testing services. Alcohol tests shall be administered by a Breath Alcohol Technician (BAT) using an Evidential Breath Testing device (EBT). Controlled substance tests shall be conducted using a urine specimen. Specimens will be screened for the presence of marijuana, cocaine, opiates, phencyclidine, and amphetamines. Tests shall be conducted in accordance with the provisions of applicable federal regulations (49 CFR Part 382 and 49 CFR Part 40).

If the U.S. Department of Transportation FHWA approves administration of tests by persons other than BATs or approves the use of other methods or technologies for detecting the presence of alcohol, then the administration of tests by such other persons and/or the use of such other methods or technologies shall be permitted under this policy. (For additional information regarding testing procedures, see "Appendix A".)

XI. CONSEQUENCES FOR COVERED EMPLOYEES

A. Alcohol Misuse

1. A driver with an alcohol test result indicating a concentration of at least 0.02, but less than 0.04 is not permitted to perform safety-sensitive functions until:
 - a. The start of the driver's next scheduled duty period, but not less than 24 hours following administration of the test;
2. When a driver has an alcohol test result indicating a concentration of 0.04 or greater, the employee shall be prohibited from performing any safety-sensitive functions until:
 - a. The employee undergoes evaluation by a Substance Abuse Professional (SAP) and, where necessary, rehabilitation;
 - b. A Substance Abuse Professional (SAP) determines that the employee has successfully complied with any required rehabilitation; and
 - c. The employee undergoes a return-to-duty alcohol test indicating a result of less than 0.02.

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

B. Controlled Substance Use

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

C. Other Potential Penalties

1. The FHWA will disqualify drivers for one year, under the procedures in 49 CFR 386, if a driver refuses to submit to a post-accident test after a fatal accident.
2. Any employer or driver who violates the requirements of Title 49 CFR Part 382 may be subject to other penalties under the provisions of 49 U.S.C. § 521(b).

XII. DISCIPLINE

- A. The federal law (49 CFR Part 382) establishes the requirements for testing commercial drivers 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 Wisconsin Stevens Point will be based on its independent authority as an employer and will be consistent with state and federal laws and existing collective bargaining agreements.
- B. When a covered employee engages in any conduct in violation of the provisions of this policy or when a covered employee uses controlled substances or misuses alcohol in violation of the FHWA rules and regulations or in violation of this policy

or University of Wisconsin work rules, it will form a just cause basis for discipline or dismissal.

- C. Failure to comply with any required evaluation by a Substance Abuse Professional (SAP) or failure to comply and remain in compliance with any and all prescribed or recommended rehabilitation and/or treatment programs shall form a just cause basis for discipline or dismissal.

XIII. RECORD RETENTION AND CONFIDENTIALITY

The University of Wisconsin Stevens Point will maintain all records required under the FHWA rules in the Risk Management Office. Records will be secured with restricted access to the information. The University will not release information contained in the records except as required or permitted by law or expressly authorized or required by Title 49 CFR, § 382.405. (For additional information on records retained by the University, see "Appendix D".)

Information may be released as follows:

- A. 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 of her alcohol or controlled substances tests;
- B. 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 drivers;
- C. When requested by the National Transportation Safety Board as part of an accident investigation, the University 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;
- D. Records will be made available to a subsequent employer upon receipt of a written request from a driver;
- E. 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. (Prohibited conduct is identified in Part VI of this policy.) 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;

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

XIV. REFERRAL, EVALUATION AND TREATMENT

- A. If a covered employee has a positive controlled substance test or a breath alcohol concentration test of 0.04 or greater, he/she will be referred to a Substance Abuse Professional (SAP). The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substances use. By law, an assessment by a SAP is mandatory before the employee is allowed to return to work and perform safety-sensitive functions. Referral to a SAP will ordinarily be made through the employee's health care provider. Employees who do not know what substance abuse services are provided under their health care plan or who do not have a health care plan, are encouraged to contact the Employee Assistance Office for information.
- B. The University's Employee Assistance Program is available to provide information and referral to employees seeking alcohol and drug abuse services. Available information includes methods of intervening, including confrontation, when an alcohol or controlled substance problem is suspected and a listing of alcohol and drug abuse services. Employees are encouraged to use this program and seek assistance before the misuse of alcohol or controlled substances become a problem and leads to disciplinary action. Where circumstances indicate a work rule violation, use of EAP will not be a defense to avoid disciplinary action.

XV. EMPLOYER NOTIFICATION

- A. **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.
- B. **Notice to Covered Employees** - 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.
- C. **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.

APPENDIX A

LABORATORY TESTING PROCEDURES

A. TESTING PROCEDURES FOR ALCOHOL

1. Alcohol tests shall be administered by a Breath Alcohol Technician (BAT) using an Evidential Breath Testing device (EBT) except that if the Department of Transportation Federal Highway Administration approves administration of tests by persons other than BAT's or approves the use of other methods or technologies for detecting the presence of alcohol then the administration of tests by such other persons and/or use of such other methods or technologies shall be permitted under this policy.
2. Alcohol testing shall be conducted in accordance with procedures set out as follows:
 - a. A driver directed to undergo alcohol testing shall proceed immediately to the designated test site as instructed. Testing shall commence within two (2) hours after notification;
 - b. The driver shall follow all procedures and instructions given by the BAT including completing, signing, initialing and/or dating any required forms or log books. Failure to do so shall be considered a refusal to test, except that it shall not be considered a refusal to test when a driver tests less than 0.02 alcohol concentration and the driver fails to: (1) sign the certification in Step 4 of the Breath Alcohol Testing Form, or (2) fails to initial the log book entry for a test;
 - c. The testing site shall provide visual and aural privacy to the covered employee, sufficient to prevent unauthorized persons from seeing or hearing test results. All necessary equipment, personnel and materials for breath testing shall be provided at the location where the testing is conducted;
 - d. No unauthorized persons shall be permitted access to the testing location when the Evidential Breath Testing Device remains unsecured or, in order to prevent such persons from seeing or hearing test results, at any time when testing is being conducted;
 - e. In unusual circumstances (for example, when it is essential to conduct a test outdoors at the scene of an accident), a test may be conducted at a location that does not fully meet the requirements of paragraph c, above. In such cases, the driver shall be provided visual and aural privacy to the greatest extent practicable;

- f. The BAT shall supervise only one driver's use of the EBT at a time and shall not leave the alcohol testing location while the testing procedure for a given driver is in progress;
- g. Upon entering the test site, the driver shall be required to provide the BAT with positive identification. Positive identification may take the form of a photo ID card or identification by a supervisor or other University official. On request of the driver, the BAT shall provide positive identification to the driver;
- h. If the result of a screening test of a driver indicates a breath alcohol concentration of less than 0.02, no further alcohol testing of that driver will be conducted during this testing event;
- i. If the result of a screening test of a driver indicates a breath alcohol concentration of less than 0.02, the BAT will transmit the result to the University's designated representative in a confidential manner. The University's representative will receive and store the information as to ensure that confidentiality is maintained;
- j. If the result of a screening test of a driver indicates a breath alcohol concentration of 0.02 or greater, the driver shall be required to undergo a confirmation test;
- k. If the confirmation test will be conducted by a different BAT, the BAT who conducts the screening test shall complete and sign the Breath Alcohol Testing Form and log book entry. The BAT shall provide the driver with Copy 2 of the form;
- l. If the BAT other than the one who conducted the screening test is conducting the confirmation test, the driver shall be required to provide positive identification in accordance with paragraph g. above, to the new BAT and the driver may request positive identification of the new BAT;
- m. The driver shall not eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This waiting period begins with the completion of the screen test and shall not be less than 15 minutes;
- n. The confirmation test shall be conducted within 20 minutes of the completion of the screening test;

- o. If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT shall initiate a new Breath Alcohol

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Testing Form. The driver shall then complete Step 2 on the form, signing the certification. Refusal of the driver to sign the certification shall be deemed a refusal to test;

- p. Refusal by the driver to complete and sign the Breath Alcohol Testing Form (Step 2), to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be noted by the BAT in the "remarks" section of the form. The testing process shall be terminated and the BAT shall immediately notify the UW Stevens Point Designated Representative (UDR) who, in turn, will notify the Divisional Representative (DR);
- q. Refusal by the driver to complete and sign the Breath Alcohol Testing Form (step 2), to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the testing process in a way that prevents the completion of the test shall be deemed a refusal to test;
- r. If a screening confirmation test cannot be completed, or if an event occurs that would invalidate the test, the BAT shall, if practicable, begin a new screening or confirmation test, as applicable, using a new Breath Alcohol Testing Form with a new sequential test number;
- s. If a driver is unable, or alleges that he or she is unable to provide an amount of breath sufficient to permit a valid breath test because of a medical condition, the BAT shall again instruct the covered employee to attempt to provide an adequate amount of breath;
 - (1) If the driver refuses to make the attempt, the BAT shall immediately inform UW Stevens Point Designated Representative (UDR) who will, in turn, notify the Divisional Representative (DR);
 - (2) If the driver attempts and fails to provide an adequate amount of breath, the BAT shall so note in the "remarks" section of the breath alcohol form and immediately inform the UW Stevens Point Designated Representative (UDR) who will, in turn, inform the Divisional Representative (DR);
 - (3) If the driver attempts and fails to provide an adequate amount of breath, the Divisional Representative (DR) shall, in consultation with

the UWSP Designated Representative (UDR), direct the driver to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician who is acceptable to the employer concerning the driver's medical ability to provide an adequate amount of breath;

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- (4) If the licensed physician determines, in his or her reasonable medical judgment that a medical condition has, or with a high degree of probability, could have precluded the driver from providing an adequate amount of breath, the driver's failure to provide an adequate amount of breath shall not be deemed a refusal to take a test. The physician shall provide the University of Wisconsin Stevens Point a written statement of the basis for his/her conclusion;
- (5) If the licensed physician, in his/her reasonable medical judgment, is unable to determine that a medical condition has, or with a high degree of probability, could have precluded the driver from providing an adequate amount of breath, the driver's failure to provide an adequate amount of breath shall be deemed a refusal to take a test. The physician shall provide, to the employer, a written statement of the basis for his/her conclusion.

B. TESTING PROCEDURES FOR CONTROLLED SUBSTANCES

Controlled substances testing shall be conducted by a laboratory certified by the U.S. Department of Health and Human Services (DHHS) and in accordance with procedures set out as follows:

1. Drivers directed to undergo a controlled substances test shall proceed immediately to the designated collection site as instructed. Testing should commence within two (2) hours of notification;
2. Upon entering the test site, the driver shall be required to provide the technician with positive identification. Positive identification may take the form of a photo ID card or identification by a supervisor or other University official. On request of the driver, the technician shall provide positive identification to the driver;
3. Drivers shall follow all procedures and instructions given by the collection site person. Failure to do so shall be considered a refusal to test;
4. The collection site person shall collect a urine sample from the covered employee in accordance with DHHS approved procedures;

5. Drivers shall provide at least 45 ml of urine for testing. Drivers who fail to provide at least 45 ml of urine shall be subject to the provisions of paragraph 18 below;
6. The collection site person shall divide the specimen into two containers. One container shall contain at least 30 ml of urine and shall be the primary specimen. The other container shall contain at least 15 ml of urine and shall be the split specimen;

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7. Both containers shall be shipped in a single shipping container, together with copies 1 and 2 and the split specimen copy of the chain of custody form to the laboratory;
8. The laboratory shall log in the split specimen with the split specimen seal remaining in tact. The laboratory shall store the split specimen securely in accordance with approved procedures;
9. The primary specimen shall undergo a screening test for the presence of controlled substances. If the screening test detects the presence of controlled substances, the primary specimen shall undergo a confirmation test;
10. If the result of the test of the primary specimen is negative, the laboratory may discard the split specimen;
11. The Medical Review Officer (MRO) shall review all primary specimen results. If the result of the test of the primary specimen is confirmed positive for the presence of controlled substances, the MRO shall notify the driver that he or she has 72 hours in which to request a test of the split specimen if the confirmed positive test is verified as positive. If the result of the test of the primary specimen is negative, the MRO shall have the authority to direct the driver to undergo a retest for the presence of controlled substances if, upon review of those results, the MRO has reason to believe the primary specimen has been adulterated;
12. If the primary specimen tests confirmed positive for the presence of controlled substances, the driver may request, in writing that the MRO direct that the split specimen be tested in a different DHHS certified laboratory for presence of the drug(s) or drug metabolite(s) for which a positive test 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 driver having been notified of a verified positive test result. The driver shall be responsible for any and all costs associated with having the split specimen tested;

13. If the driver has not contacted the MRO within 72 hours, the driver may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the driver from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation for the driver's failure to contact the MRO within 72 hours, the MRO shall direct that the re-analysis of the primary specimen or analysis of the split specimen, as applicable, be performed. The driver may not request a re-analysis of the primary specimen;
14. If the result of the test of the primary specimen is positive, the laboratory must retain the split specimen in frozen storage for 60 days from the date on which the

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laboratory acquires it. Following the end of the 60 day period, if not informed by the MRO that the driver has requested a test of the split specimen, the laboratory may discard the split specimen;

15. If the MRO directs the first laboratory in writing to forward the split specimen to a second DHHS certified laboratory, the second laboratory shall analyze the split specimen by GC/MS to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen. Such GC/MS confirmation shall be conducted without regard to the cutoff levels established by DHHS. The split specimen shall be retained in long-term storage for one year by the laboratory conducting the analysis of the split specimen (or longer if litigation concerning the test is pending);
16. The result of the test of the split specimen shall be transmitted by the second laboratory to the MRO;
17. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO shall cancel the test and report the cancellation and the reasons for it to the UW Stevens Point Designated Representative (UDR), the driver and to the DOT;
18. A driver whose primary specimen tests positive for the presence of controlled substances and who requests, in accordance with paragraph 11 above, the split specimen be tested, shall not be permitted to perform safety sensitive duties pending the outcome of such test. The driver may be assigned to other appropriate non-safety sensitive duties if they are available. If not, the driver will be released from duty pending the outcome of the test. However, if the driver is relieved from duty and the test of the split specimen does not reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the driver shall be paid his/her straight time salary for all regularly scheduled shifts he or she would have worked

and shall be reimbursed for the costs associated with having the split specimen tested;

19. a. If the driver is unable to provide the required 45 ml of urine, the driver shall be instructed 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;
- b. If the driver is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the laboratory shall notify the UW Stevens Point Designated Representative of the driver's inability to provide an adequate sample;

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- c. The MRO will refer the driver for a medical evaluation to develop pertinent information concerning whether the driver's inability to provide an adequate specimen is genuine or constitutes a refusal to test. Upon completion of the examination, the MRO shall report his/her findings to the UW Stevens Point Designated Representative (UDR) in writing. The UW Stevens Point Designated Representative (UDR) will inform the Divisional Representative (DR);

Note: In a pre-employment testing situation, the University's Representatives will determine whether or not to finalize hiring of the employee, and the MRO is not required to make such a referral.

- d. If the MRO determines that the driver's inability to provide an adequate specimen is not genuine, the driver shall be deemed to have refused to test.

APPENDIX B

DESIGNATED DRUG COLLECTION/BREATH ALCOHOL TESTING SITES

Alere Toxicology Services (ATS) has been selected by the University of Wisconsin Stevens Point as its vendor to conduct drug and alcohol testing. Alere Toxicology Services has established collection/testing sites in various cities in Wisconsin. University of Wisconsin Stevens Point employees will normally be referred to Saints Health Services for Business, 5412 Hwy 10 E., Stevens Point. St. Mary's Hospital is the designated site for Treehaven employees. Other sites in Wisconsin may be available when needed for reasonable suspicion or post-accident testing. In emergencies, call the "1-800" number below at Alere Toxicology Services for assistance. Also listed are designated testing sites for Treehaven employees.

Stevens Point

Saints Health Services for Business
5412 Hwy 10 E.
Stevens Point, WI 54481
(715) 346-5243

**Tomahawk
and
Rhinelanders**

St. Mary's Hospital
Occupational Medicine
1020 Kabel Avenue
Rhinelanders, WI 54501
(715) 361-2825

(Call for appointment)

Other Locations Alere Toxicology Services
and 1-800-433-3823
Emergency Number

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APPENDIX C

CONTACTS

FOR

INFORMATION AND ASSISTANCE

University of Wisconsin Stevens Point Designated Representative (UDR)

The Office of Risk Management is responsible for administering this program for the University of Wisconsin Stevens Point. The office is located on the 2nd Floor, Geo. Stien Building, 1925 Maria Drive, Stevens Point, WI 54481.

Primary representative: Jeff Karcher, Director
(715) 346-3901

Alternate: Jerry Kummer, CNR Transportation Coordinator
(715) 346-4238

Employee Assistance Program (EAP)

The UW Stevens Point Employee Assistance office is located on the 3rd floor of Delzell Hall, 910 Fremont Street, Stevens Point, WI 54481.

Kelsey Richmond, EAP Coordinator
(715) 346-3553

Divisional Representatives (DR)

The following Divisions or Departments have identified employees within their units who are required to have a Commercial Driver's license (CDL). Additional representatives will be added to this list as appropriate.

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College of Natural Resources (CNR)

Jerry Kummer
CNR Transportation Coordinator
(715) 346-4238

Department of Grounds and Auto

Chris Brindley, Assistant Director of Physical Plant
(715) 346-3622

Treehaven Field Station

Corky McReynolds, Director
(715) 453-4106

APPENDIX D

RECORD KEEPING

- A. **General** -The University of Wisconsin Stevens Point 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.
- B. **Period of Retention** - 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.

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C. **Types of records** -The following specific records shall be maintained.

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 test;
- b. The employer's copy of the controlled substances test chain of custody and control form;
- c. Documents sent by the medical review officer to the employer;
- d. Documents related to the refusal of any driver to submit to an alcohol or controlled substances test required by this part; and
- e. 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.

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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 Wisconsin Stevens Point's drug testing policy and procedures.

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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 Office of Risk Management. The records will be made available

for inspection at the Office of Risk Management within two business days after a request has been made by an authorized representative of the Federal Highway Administration.

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APPENDIX E

EMPLOYEE ASSISTANCE

A. Introduction

The Employee Assistance Program (EAP) provides a variety of services including problem consultation/assessment with individuals and groups, information about community resources, educational programs, and appropriate referrals of individuals in need of help. It

also assists Deans, Department Chairs, Directors, managers, supervisors, and/or union representatives to respond more appropriately to employees who evidence deteriorating or unacceptable job performance or employment problems caused by personal, work-related, behavioral or medical reasons.

B. Policy

It is the policy of the University of Wisconsin Stevens Point to maintain an Employee Assistance Program (EAP) to help employees and immediate family members/significant others deal with personal, work-related, behavioral problems and to promote the utilization of its services at all organizational levels and locations.

C. Guidelines

The Employee Assistance Program (EAP) assists employees and/or immediate family members/significant others to access treatment that match their needs.

In supporting the Employee Assistance office, the UW Stevens Point acknowledges that:

- Problems are a part of everyone's life;
- The impact of personal, work-related, behavioral problems can be lessened or remedied by timely and appropriate assistance/treatment;
- Early identification of such problems is crucial and use of appropriate community service providers to deal with them is encouraged;

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- Involvement with the EAP will not jeopardize an individual's job security and/or promotional opportunities;
- Contact with the EAP is voluntary and lack of contact can NOT be a cause for disciplinary action;
- No record of services provided by the EAP is entered in an individual's Personnel File (whether kept centrally or departmentally).

D. Confidentiality

The Employee Assistance Program (EAP) adheres to State Law which guarantees that everything an employee talks about is held in strictest confidence. Information regarding Employee Assistance Program sessions can be shared outside the Employee Assistance office only if the employee provides written permission. The only exception arises when there is a danger to life, or to the safety of a vulnerable other such as in cases of physical or sexual abuse of a child. Additionally, the courts could subpoena counseling records if they were aware they existed and considered them relevant to a legal charge.

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APPENDIX F

POST-ACCIDENT INSTRUCTIONS

A. Requirements

1. As soon as practicable following an accident involving a commercial vehicle, each surviving driver must be tested for alcohol and controlled substances when:
 - a. 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
 - b. The driver receives a citation under state or local law for a moving traffic violation arising from the accident; and
 - (1) A person is injured and, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (2) 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
 - c. 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". (Ref: 49 CFR §382.303 and §390.5)
2. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit the driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.
3. Testing for both alcohol and controlled substances will be required.
 - a. The driver will be required to provide a breath specimen to be tested for the presence of alcohol within 2 hours if possible but no later than 8 hours after the accident.
 - b. The driver will be required to provide a urine specimen to be tested for the use of controlled substances as soon as possible, but not later than 32 hours after the accident.

B. Procedures Following a Reportable Accident

1. As soon as practicable following a reportable accident, the driver should contact his or her Divisional Representative (DR) for instructions. If the driver is unable to contact the DR, they may contact the University's Designated Representative (UDR)
2. The driver will be scheduled for testing as soon as possible following the accident.
 - a. If the accident occurs in the vicinity of Stevens Point, the driver will be tested at the following collection/testing site.

Saints Health Services for Business
5412 Hwy 10 E.
Stevens Point, WI 54481
(715) 346-5243
 - b. If the accident occurs in the vicinity of the Treehaven Field Station, the driver will be tested at the following collection/testing sites:

St. Mary's Hospital
Occupational Medicine
1020 Kabel Avenue
Rhineland, WI 54501
(715) 361-2825
 - c. Other locations, off hours and emergency contact:

Alere Toxicology Services
1-800-433-3823
3. If the accident occurs outside the Stevens Point/Treehaven area, the driver may be referred to the closest available medical facility with appropriate testing equipment. Contact Alere Toxicology Services at the "1-800" number listed above for instructions on the closest available facility.
4. The results of a breath or blood test for the use of alcohol or a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, will be considered to meet these requirements, provided the tests conform to applicable Federal, State or local requirements, and that the results of the tests are obtained by the University of Wisconsin Stevens Point.

C. **Special Notice**

1. No driver required to take a post-accident alcohol test may use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
2. The Federal Highway Administration (FHWA) will disqualify drivers for one year, under the procedures outlined in 49 CFR 386, if a driver refuses to submit to post-accident tests after a fatal accident.

**THE UNIVERSITY OF WISCONSIN - STEVENS POINT
DRUG AND ALCOHOL TESTING POLICY**

and

DRIVER POST-ACCIDENT INSTRUCTIONS

EMPLOYEE ACKNOWLEDGMENT FORM

Return this acknowledgment to the Office of Risk Management for filing in the official Driver Qualification File. No one is permitted to drive a University-owned or leased commercial motor vehicle requiring a CDL, until they have signed, dated and returned this form.

I acknowledge that I have received the University of Wisconsin Stevens Point Alcohol and Controlled Substance Testing Policy and received training on the date indicated below. I also acknowledge that I have received the University's Post-Accident Instructions. I understand that the Office of Risk Management 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 on the policy and procedures. I understand that the terms described in this policy may be altered, amended or changed by the University of Wisconsin 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.

SIGNED: _____

PRINT NAME: _____

DATE: _____

