



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

Ref. No. Docket PG-072246

CERTIFIED MAIL

January 29, 2008

Wayne Anderson
President
Inland Empire Paper Company
3320 N. Argonne
Spokane, Washington 99212

Dear Mr. Anderson:

Subject: 2007 Inland Empire Paper Company Drug and Alcohol Inspection

We conducted an inspection from December 11, 2007 through December 13, 2007, of Inland Empire Paper Company's (IEP) drug and alcohol programs. The inspection included a records and procedures review.

Our inspection indicates a series of 19 probable violations, as noted in the enclosed report. The majority of the probable violations are related to IEP's failure to keep abreast of changes to federal drug and alcohol testing requirements. This resulted in the company not having adequate programs that meet the requirements of Title 49 CFR Parts 199 and 40.

It is imperative that IEP keep current with federal drug and alcohol testing rules and requirements, incorporate any changes into its programs and ensure that appropriate company personnel are adequately trained on the requirements.

Your response is needed.

Please review the attached report and respond in writing by February 29, 2008. The response should include a letter of intent and the date you plan to bring the probable violations into full compliance including how the company intends to stay up to date on future changes to drug and alcohol testing rules and requirements.



Inland Empire Paper
Docket No. PG-072246
January 29, 2008
Page 2

What happens after you respond to this letter?

The attached report presents staff's findings on probable violations and does not constitute a finding of violation by the commission at this time.

After you respond in writing to this letter, there are several possible actions the commission, in its discretion, may take with respect to this matter. For example, the commission may:

- Issue an administrative penalty under RCW 81.88.040, or
- Institute a complaint, seeking monetary penalties, changes in the company's practices, or other relief authorized by law and justified by the circumstances, or
- Consider the matter resolved without further commission action.

Staff has not yet decided whether to recommend to the commission pursuit of a complaint or penalty in this matter. Should the commission decide to pursue a complaint or penalty, your company will have an opportunity to present its position directly to the commission.

If you have any questions, or if we may be of any assistance, please contact Scott Rukke at (360) 664-1241. Please refer to docket number PG-072246 in any future correspondence regarding this inspection.

Sincerely,



Carole J. Washburn
Executive Secretary

Enclosure

UTILITIES AND TRANSPORTATION COMMISSION

2007 Drug and Alcohol Inspection
Inland Empire Paper Company, Spokane
Docket PG-072246

Probable Violations

The following probable violation(s) of Title 49 CFR Parts 199 and 40 were noted as a result of the inspection of Inland Empire's drug and alcohol program procedures and records.

1. 49 CFR Part 199.101(a)(4) Anti-drug plan

- Part 2*
- (a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures. The plan must contain—
(4) Procedures for notifying employees of the coverage and provisions of the plan.

Findings:

IEP's anti drug plan does not contain a procedure for notifying employees of the coverage and provisions of the plan.

2. 49 CFR Part 199.105(a) Drug tests required

PS 2
FF 2
Each operator shall conduct the following drug tests for the presence of a prohibited drug:

- (a) Pre-employment testing. No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this part.

Findings:

IEP was unable to provide records indicating that pre-employment drug testing was conducted when employees transferred from non-covered positions to covered positions. IEP employees indicated that tests are not given for employees transferring to covered positions because all employees are given pre-employment drug tests when originally hired. It is a requirement that company drug programs and DOT drug programs be kept separate unless the company program meets the requirements of parts 199 and 40. Since your company program does not meet the requirements, a pre-employment drug test is required when an employee transfers to a covered position.

Following is an excerpt from the DOT model anti drug plan for pipeline operators to use as guidance on how to meet the minimum requirements.

1. Pre-employment Testing. [§199.105]

- a) A pre-employment drug test must be conducted when either an individual is hired for a covered position or when a current employee is first transferred from a non-covered to a covered position, unless the individual is already in a Part 199 anti-drug program. Also, an employee

who is separated from a Part 199 anti-drug program must be pre-employment tested prior to performing a covered function.

3. **49 CFR Part 199.105(c)(2) Drug tests required**

(c) **Random Testing.**

- (1) *Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.*
- (2) *The Administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by this subpart. In order to ensure reliability of the data, the Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from operators, and may make appropriate modifications in calculating the industry positive rate. Each year, the Administrator will publish in the Federal Register the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication.*

PS 6
C

Findings:

Records indicate that IEP had 22 DOT covered employees in 2004, 2005 and 2006. IEP conducted random drug tests on 5 employees in each of these years. This does not meet the requirement that at a minimum, 25% of covered employees be randomly tested.

4. **49 CFR Part 199.105(c)(7) Drug tests required**

(c) **Random Testing.**

- (7) *Each operator shall ensure that random drug tests conducted under this subpart are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.*

Findings:

a) IEP procedures do not specify at what frequencies random testing will be conducted. IEP's procedure states that random testing will be "reasonably spread throughout the year." Part 199 guidelines and the "Model Anti Drug Plan" developed by the DOT require that operators specify a pre-determined defined frequency that falls on different days of the week. Annually and semi-annually are not acceptable.

b) IEP's policy of sometimes allowing several months between an employee's name being randomly drawn and the actual test being conducted does not meet the requirement that tests be reasonable spread throughout the year. IEP must make accommodations to test employees at the time their names are drawn. This may be after hours, after their shift ends etc.

Will not
Bi-Monthly
testing to
PS 6 (c)
b)

OR new plan
to test ASAP

5. **49 CFR Part 199.105(f) Drug tests required**

PS 7
F

(f) *Follow-Up Testing. A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. 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.*

Findings:

IEP procedures do not specify that six follow-up tests are required within the first 12 months following a covered employee's return to duty.

6. **49 CFR Part 199.109(f) Review of drug testing results**

PS 7
g

(f) *The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:*

Findings:

IEP's plan does not disallow an SAP to refer employees to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest.

7. **49 CFR Part 40.153(d) How does the MRO notify employees of their right to a test of the split specimen**

PS 11
H 8

(d) *You must tell the employee that if he or she makes this request within 72 hours, the employer must ensure that the test takes place, and that the employee is not required to pay for the test from his or her own funds before the test takes place. You must also tell the employee that the employer may seek reimbursement for the cost of the test (see §40.173).*

Findings:

IEP procedures do not specify the requirements for payment when split tests are conducted.

8. **49 CFR Part 199.111(c) Retention of sample and retesting**

PS11
#8

(c) *If the employee specifies testing by a second laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample.*

Findings:

IEP does not have any procedure for chain of custody when secondary tests are conducted.

9. **49 CFR Part 199.111(d) Retention of sample and retesting**

PS11
e

(d) *Since some analyses may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT Procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results.*

Findings:

IEP does not have a procedure addressing this requirement.

10. **49 CFR Part 199.115, .115(a) and .115(b) Contract employees**

PS8
1k
2

With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by this part be carried out by the contractor provided:

- (a) *The operator remains responsible for ensuring that the requirements of this part are complied with; and*
- (b) *The contractor allows access to property and records by the operator, the Administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of this part.*

Findings:

In August of 2005, IEP used contract welders on a segment of pipeline that was re-located. During this inspection, we requested records of the contract welders drug and alcohol program and test records for the employees that performed covered functions on IEP's pipeline facility. IEP has not provided any records indicating that the welding contract employees were, or are, covered by a qualified drug and alcohol program.

11. **49 CFR Part 199.119(a) Reporting of anti-drug testing results**

(a) *Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR Part 40 (at § 40.25 and appendix H to Part 40), not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to PHMSA.*

PS 24

Findings:

IEP does not have a procedure requiring that the MIS form be submitted to PHMSA upon request. It should also be noted that once PHMSA requests the MIS form from an operator with less than 50 covered employees, WAC 480-93-200(10) requires that the form be simultaneously submitted to the UTC.

12. **49 CFR Part 199.227 Retention of records**

(b) *Period of retention. Each operator shall maintain the records in accordance with the following schedule:*

Ale Program
PS 12
(2)
(2)
(3)

(1) *Five years. Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, employee evaluation and referrals, and MIS annual report data shall be maintained for a minimum of 5 years.*

(2) *Two years. Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of 2 years.*

(3) *One year. Records of all test results below 0.02 (as defined in 49 CFR Part 40) shall be maintained for a minimum of 1 year.*

Findings:

IEP does not have record keeping requirements for MIS annual reports.

13. **49 CFR Part 40.333(a)(2)-(3) What records must employers keep?**

(a) *As an employer, you must keep the following records for the following periods of time:*

(2) *You must keep records for three years of information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees.*

You must keep records of the inspection, maintenance, and calibration of EBTs; for two years.

(4) *You must keep records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02 for one year.*

OK for Alcohol
AIC PS 17(3)
PS 12

added #8 to drug program
added #7 to drug plan concerning previous employment

Findings:

IEP procedures do not specify record keeping requirements for information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees or for records of the inspection, maintenance, and calibration of EBTs.

Not found in drug program

14. **49 CFR Part 199.231 Access to facilities and records**

(a) *Except as required by law or expressly authorized or required in this subpart, no employer shall release covered employee information that is contained in records required to be maintained in §199.227.*

(b) *A covered employees is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. The operator shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.*

by G & h
Tom on 5/7/08
Brow
added to ALC
Program
PS 14

- (c) Each operator shall permit access to all facilities utilized in complying with the requirements of this subpart to the Secretary of Transportation, any DOT agency, or a representative of a state agency with regulatory authority over the operator.
- (d) Each operator shall make available copies of all results for employer alcohol testing conducted under this subpart and any other information pertaining to the operator's alcohol misuse prevention program, when requested by the Secretary of Transportation, any DOT agency with regulatory authority over the operator, or a representative of a state agency with regulatory authority over the operator. The information shall include name-specific alcohol test results, records, and reports.
- (e) When requested by the National Transportation Safety Board as part of an accident investigation, an operator shall disclose information related to the operator's administration of any post-accident alcohol tests administered following the accident under investigation.
- (f) An operator shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.
- (g) An operator may disclose information without employee consent as provided by DOT Procedures concerning certain legal proceedings.
- (h) An operator shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

Findings:

IEP does not have a procedure to address the release of information requirements found in 199.231.

15. **49 CFR Part 199.237(b) Other alcohol related conduct**

- (a) No operator shall permit a covered employee tested under the provisions of §199.225, who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, to perform or continue to perform covered functions, until:
 - (1) The employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §199.225(e); or
 - (2) The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- (b) Except as provided in paragraph (a) of this section, no operator shall take any action under this subpart against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an operator with authority independent of this subpart from taking any action otherwise consistent with law.

will add a section titled "Other alcohol related conduct" to address this requirement

Findings:

IEP does not have a procedure addressing this requirement.

16. **49 CFR Part 199.239 Operator obligation to promulgate a policy on the misuse of alcohol**

- (a) *General requirements. Each operator shall provide educational materials that explain these alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements.*
- (1) *The operator shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under this subpart, and to each person subsequently hired for or transferred to a covered position.*
 - (2) *Each operator shall provide written notice to representatives of employee organizations of the availability of this information.*
- (b) *Required content. The materials to be made available to covered employees shall include detailed discussion of at least the following:*
- (1) *The identity of the person designated by the operator to answer covered employee questions about the materials.*
 - (2) *The categories of employees who are subject to the provisions of this subpart.*
 - (3) *Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this subpart.*
 - (4) *Specific information concerning covered employee conduct that is prohibited by this subpart.*
 - (5) *The circumstances under which a covered employee will be tested for alcohol under this subpart.*
 - (6) *The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.*
 - (7) *The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart.*
 - (8) *An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.*
 - (9) *The consequences for covered employees to have violated the prohibitions under this subpart, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243.*
 - (10) *The consequences for covered employees to have an alcohol concentration of 0.02 or greater but less than 0.04.*
 - (11) *Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.*

no (C)
(optional)

PS
5
(c)

Optional provisions. The materials supplied to covered employees may also include information on additional operator policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the operator's authority independent of this subpart. Any such additional policies or consequences shall be clearly described as being based on independent authority.

Findings:

IEP does not have a procedure addressing the requirements found in 199.239.

17. **49 CFR Part 199.241 Training for supervisors**

PS
5

Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §199.225(b) receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Findings:

IEP procedures do not specify that a minimum of 60 minutes of training must be provided.

18. **49 CFR Part 199.243 Referral, evaluation, and treatment**

(a) *Each covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 of this subpart shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol. This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.*

(b) *Each covered employee who engages in conduct prohibited under §§199.215 through 199.223 shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.*

(c) (1) *Before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§199.215 through 199.223 of this subpart, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.*

(2) *In addition, each covered employee identified as needing assistance in resolving problems associated with alcohol misuse-*

(i) *Shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed under paragraph (b) of this section, and*

(ii) *Shall be subject to unannounced follow-up alcohol tests administered by the operator following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the*

employee's return to duty. 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.

- (d) Evaluation and rehabilitation may be provided by the operator, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies.
- (e) The operator shall ensure that a substance abuse professional who determines that a covered employee requires assistance in resolving problems with alcohol misuse does not refer the employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring an employee for assistance provided through-
- (1) A public agency, such as a State, county, or municipality;
 - (2) The operator or a person under contract to provide treatment for alcohol problems on behalf of the operator;
 - (3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or
 - (4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

Ps
10-11

Findings:

IEP does not have a procedure addressing the requirements found in 199.243.

19. **49 CFR Part 199.245 Contractor employees**

- (a) With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this subpart be carried out by the contractor provided:
- (b) The operator remains responsible for ensuring that the requirements of this subpart and part 40 of this title are complied with; and
- (c) The contractor allows access to property and records by the operator, the Administrator, any DOT agency with regulatory authority over the operator or covered employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes of monitoring the operator's compliance with the requirements of this subpart and part 40 of this title.

Findings:

IEP does not have a procedure addressing the requirements found in 199.245.

5/7/08 Per Tom
added to
Page 15
AIC Plan
It is in
the drug
Plan



INLAND EMPIRE
PAPER COMPANY

Papermakers since 1911.

3320 N. ARGONNE
SPOKANE, WASHINGTON 99212-2099

PHONE 509.924.1911
FAX 509.927.8461

March 27, 2008

Ms. Carole J. Washburn
Executive Secretary
WUTC
P.O Box 47250
Olympia, WA 98504-7250


RECEIVED
RECORDS MANAGEMENT
2008 APR -1 AM 10:52
STATE OF WASH.
OFFICE OF THE
COMMISSIONER

Dear Ms. Washburn:

Enclosed is an updated Drug and Alcohol Plan that includes suggested changes from Scott Rukke's visit on December 11, 2007.

Should you have any questions, please contact me at the number listed above.

Sincerely,


Thomas E. Brown
Human Resources Manager

Enclosure

mb

INDEX

	<u>PAGE</u>
8.0 <u>ANTI-DRUG PLAN</u>	
8.01 Statement	1
8.02 Persons Covered	2
8.03 Definitions	3
8.04 Drugs Covered	5
8.05 Types of Tests	6
8.06 Contractors	8
8.07 Medical Review Officer	9
8.08 Specimen Collection Procedures	14
8.09 Positive Test/Refusal to Test	22
8.10 Record Keeping	23
8.11 Anti-Drug Testing Results	24
8.12 Employee Assistance Program	25
8.13 Laboratories	26

Page 7 (G) unfinished?

8.01 **Statement**

It is Inland Empire Paper Company's (IEP) intent to be in compliance with the Department of Transportation's (DOT) requirements to maintain and follow a written anti-drug plan.

These procedures are established in response to the DOT Procedure for Transportation Workplace Drug Testing Programs, 49 CFR Part 40, and Pipeline Safety Regulations Part 199 - Drug Testing.

8.02 PERSONS COVERED

Covered employee, employee, or individual to be tested means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors.

Covered function means an operation, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter that is performed on a pipeline or on an LNG facility.

The following positions are covered under Inland Empire Paper Company's anti-drug plan:

Power Plant Operators	Technical Superintendent
Shift Supervisors	Maintenance Superintendent
General Manager	Pulp Mill Superintendent
Instrument Repairman	Paper Machine Superintendent
Production Manager	Project Engineer
Environmental Compliance Eng.	Ray Allen, Contractor

1. Inland Empire Paper Company will provide a copy of the Drug and Alcohol Plan required by the Utilities and Transportation Commission to an employee covered by the Plan.
2. New employees or existing employees that transfer from non-covered positions will be given an approved drug test prior to performing a covered function.

Revised 3/26/08

8.03 DEFINITIONS

Accident means an incident reportable under part 191 of this chapter involving gas pipeline facilities or LNG facilities or an accident reportable under part 195 of this chapter involving hazardous liquid pipeline facilities.

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

Covered employee, employee, or individual to be tested means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors.

Covered function means an operation, maintenance, or emergency response function performed on a pipeline.

DOT Procedures means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in part 40 of this title.

Fail a drug test means that the confirmation test result shows positive evidence of the presence under DOT Procedures of a prohibited drug in an employee's system.

Operator means a person who owns or operates pipeline facilities subject to part 192, 193, or 195 of this chapter.

Pass a drug test means that initial testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in a person's system.

Performs a covered function includes actually performing, ready to perform, or immediately available to perform a covered function.

Positive rate means the number of positive results for random drug tests conducted under this subpart plus the number of refusals of random tests required by this subpart, divided by the total number of random drug tests conducted under this subpart plus the number of refusals of random tests required by this subpart.

Prohibited drug means any of the following substances specified in Schedule I or Schedule II of the controlled Substances Act (21 U.S.C. 812); marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

Refuse to submit, refuse, or refuse to take means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test.

State agency means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws.

8.04 DRUGS COVERED BY DOT TESTING

Inland Empire Paper Company's anti-drug plan will test for the following drugs:

Marijuana

Cocaine

Opiates

Amphetamines

Phencyclidine (PCP)

8.05 TYPES OF TESTS

The Department of Transportation requires (49 CFR Part 199.105) the following drug tests for the presence of a prohibited drug:

Drug Tests Required

IEP will conduct the following drug tests for the presence of a prohibited drug:

- a) Pre-employment Testing - IEP will not hire any person unless that person passes a drug test.
- b) Post-accident Testing - As soon as possible but no later than 32 hours after an accident, IEP will drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. If an employee is injured, unconscious, or otherwise unable to evidence consent to the drug test, all reasonable steps must be taken to obtain a urine sample. IEP may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use. This decision should be documented and kept in the file.
- c) Random Testing - IEP will administer every 12 months, a number of random drug tests at a rate specified by the Administrator in the Federal Register beginning January 1 of the calendar year following publication. IEP shall select employees for testing by using a random number table or a computer-based random number generator that is matched with an employee's social security number, payroll identification number, or other appropriate identification number, or other appropriate method.
- d) The number of tests conducted by IEP will be determined by the Administrator in the previous year. These tests will be spread equally throughout the year; i.e., if six tests are required, one name will be drawn every two months. Reasonable accommodations will be made to have the employee tested after their name is drawn.
- e) Testing Based on Reasonable Cause - IEP will drug test each employee when there is reasonable cause to believe the employee is using a prohibited drug. The decision to test must be based on a reasonable and articulate belief that

the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. One supervisor of IEP trained in detecting possible drug use symptoms shall substantiate the decision to test. Testing will occur within two hours for reasonable cause.

f) Follow-Up Testing - A covered employee who refused to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. 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.

g) The operator shall ensure that a substance abuse professional, who determines that a covered employee requires assistance in resolving problems with drug abuse, does not refer the covered employee to the substance professionals private practice or to a person or organization from which the substance abuse professional has a financial interest. ~~This paragraph does not prohibit a substance abuse professional from referring a covered employee for assistance provided through:~~ →

Removed
Per Tom
5/7/08 Brown

h) An "accident" is defined as a work "incident" as found in the Pipeline Safety Regulations Part 191.3. An "accident" on a gas pipeline is defined as:

- 1) An event that causes release of gas from a pipeline or facility; and
 - i. Death or personal injury causing inpatient hospitalization.
 - ii. \$50,000 or more worth of damage occurs including cost of lost gas.
- 2) An event that results in an emergency shutdown of a facility; and
- 3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of 1 or 2.

8.06 CONTRACTORS

Contractors and employees of contractors who perform work for Inland Empire Paper Company are required to comply with the DOT anti-drug program (49 CFR Part 40 and Part 199). This includes drug testing, education, and training.

- 1) The operator remains responsible for ensuring that the requirements of this part are complied with; and
- 2) The contractor allows access to property and records by the operator, the Administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirement of this part.

The contractor will allow access to property and records for IEP for the purpose of monitoring the operator's compliance with the requirements of 49 CFR Part 199.115.

Current Contractors

Ray Allen, P.E.
Uribe, Inc.

8.07 MEDICAL REVIEW OFFICER

(a) Medical Review Officer (MRO) Shall Review Laboratory Confirmed Positive Results.

The MRO conducts the final review of all drug test results. A laboratory positive test result (called a "confirmed" positive) does not automatically identify an employee as having used drugs in violation of a DOT agency regulation. A detailed review of the confirmed positive results by the MRO is necessary prior to transmission of the results to the employer. This MRO review or verification process involves contact with the employee and review of the custody and control form. Negative results require only an administrative review by the MRO prior to transmission to the employer. This administrative review should include a review of the custody and control form to substantiate that the reported negative result is correctly identified with the employee.

(b) Medical Review Officer (MRO) Qualification and Responsibilities.

- 1) MRO shall be a licensed physician; have a knowledge of substance abuse disorders, and may be on the employer's staff or a private physician under contract to the employer.
- 2) MRO shall not be an employee of the laboratory conducting the drug testing unless there is a clear separation of functions to preclude any conflict of interest. The MRO shall not have any responsibility for, supervise, or be supervised by any persons who are involved in the drug testing or quality control operations of the laboratory.
- 3) In reviewing positive results reported by the laboratory, the MRO shall examine alternative medical explanations for any positive test results. This review may include conducting a medical interview (in person and/or telephonically) including medical history and any other relevant biomedical factors. The MRO shall review all medical records made available by the employee when a confirmed positive could have resulted from legally prescribed medication. The MRO shall not consider any urine test results from specimens collected or processed under circumstances other than those prescribed in 49 CFR Part 40.

(c) MRO Verification of Positive Test Results

- 1) Prior to verifying a test result as positive, the MRO must give the employee an opportunity to discuss the test result directly with the MRO.

- 2) The MRO must confidentially contact the employee to determine if the employee chooses to discuss the test results. A staff person under the MRO's supervision may make the initial contact with the employee. A medically licensed or certified staff person (nurse, physician's assistant, emergency medical technician) may obtain information related to the drug test result from the employee. Except as identified in paragraph (5) below, the MRO must talk directly with the employee before verifying a test as positive.
- 3) If, after making a reasonable effort to contact the employee, the MRO is unable to talk with the employee, the MRO shall contact a designated employer representative who must contact the employee. The employer, in consultation with the MRO, should establish guidelines for what constitutes "a reasonable effort" (time, number of attempts, etc.). The MRO should document all attempts made to contact the employee. The designated employer representative should direct the employee to contact the MRO as soon as possible. Any contact with the employee should be held in confidence.
- 4) If the designated employer representative is unable to contact the employee, the employer may place the employee on temporary medically unqualified status or medical leave. All reasonable efforts to contact the employee should be documented.
- 5) The MRO may verify a positive test result without having communicated directly with the employee about the test result in three circumstances:
 - The employee refuses to discuss the test results, or
 - The designated employer representative has contacted the employee directing him/her to contact the MRO, and more than five days have passed; or
 - Other circumstances provided for in the DOT Operating Administration testing regulations.
- 6) If a positive test is verified without direct communication with the MRO, as outlined above, the employee may present to the MRO information documenting a valid reason for his/her failure to contact the MRO within five days. On the basis of such information, the MRO may reopen the verification process. If the employee presents documentation of a legitimate explanation for the positive result, and the MRO concludes that the explanation is legitimate, the MRO shall declare the test negative and so notify the employer.
- 7) Upon verification of a positive test result, the MRO shall notify the employer. This notification can be telephonic, however, it should be followed up with a written notification.

Written notification may be accomplished using the Copy 2 of the Custody and Control form or a separate report form developed by the MRO. If the employer's policy so provides, the MRO shall refer the employee to an employee assistance or rehabilitation program.

- 8) The MRO must tell the employee that if he or she makes a request to re-test within 72 hours, the employer must ensure that the test takes place, and that the employee is not required to pay for the test from his or her own funds before the test takes place. The MRO must also tell the employee that the employer may seek reimbursement for the cost of the test. If the employee specifies testing by a second laboratory, the original laboratory must follow approved chain-of-custody procedures in transferring a portion of the sample.

(d) Verification for Opiate Positive Test Results

Prior to verifying a confirmed positive result for opiates, the MRO shall determine that there is clinical evidence, in addition to the urine test results, or unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine). Clinical evidence may be obtained from a medical history and/or physical examination. An admission of unauthorized use of an opiate product is sufficient for verification of the positive result. If The GC/MS confirmation testing identified the presence of 6-monoacetylmorphine, no additional clinical evidence is necessary for verification.

(e) Reanalysis (Retest) of Positive Specimens

The MRO may order a reanalysis of the original specimen. Such retests shall be performed only at DHHS certified laboratories, shall be by GC/MS confirmation methodology only, and shall not be subject to any cut-off levels. As long as there is a scientifically detectable presence of the drug(s) or metabolite, the specimen is again confirmed positive. The MRO shall order a reanalysis if requested by the employee within 72 hours (or longer if specified in DOT Operating Administration's drug testing regulations) of the employees having been notified of the positive test result. Since some analytes may deteriorate during storage, detected levels of the drug below the detection limits established in the DOT Procedures, but equal to or greater than the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive results. If the reanalysis fails to confirm the presence of the drug(s) metabolite, the MRO shall cancel the test.

Revised 3/26/08

(f) Result Consistent With authorized Drug Use

If the MRO determines that there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the employer as negative. No indication that a positive result was reported by the laboratory shall be provided to the employer.

(g) Result Scientifically insufficient

Based on quality control data, review of laboratory scientific data, or other pertinent facts, the MRO may determine that the result is scientifically insufficient for verification and declare the test result negative. Before making such a declaration, the MRO should order a reanalysis of the specimen, and consult with the laboratory toxicologist or certifying scientist.

The MRO shall notify the employer of all test results verified as negative due to scientific insufficiency (without revealing the identity of the employee) and the employer shall include such information (again without individual identifying data) in any required reporting to a DOT agency.

(h) Disclosure of Information

(1) Disclosure of any medical information provided by the employees to the MRO as a part of the test verification process is prohibited except when:

- A DOT regulation requires such disclosure;
- The MRO believes the information could result in the employee being determined to be medically unqualified under a DOT agency rule; or
- The MRO believes the information indicates that continued performance by the employee (even when not subject to physical qualification standards) of his/her sensitive-safety function could pose a significant safety risk.

In the above circumstances, the disclosure of information is limited to the:

- Employer,
- DOT or other Federal Safety agency, or
- A physician responsible for determining the medical qualification of the employee under an applicable DOT agency regulation.

NOTE: DOT agency regulations may contain additional restrictions on disclosure of this information.

Revised 3/26/08

- (2) Before obtaining any information from the employee, the MRO must inform the employee of the above conditions of disclosure and identify the parties to whom such information may be disclosed.

The medical review officer and substance abuse professional designated for use by Inland Empire Paper Company is:

Stuart Hoffman, MD
Choice Point Workplace Solutions
480 Quadrangle Drive, Suite A
Bolingbrook, IL 60440

Substance Abuse Professional
Greg Wonnacott, CEAP
407 E. 2nd, Suite 200
Spokane, WA 99202
509/534-6820

8.08 Specimen Collection Procedures

- (a) Designation of Collection Site
Pathology Associates Medical Laboratories will be utilized as the specimen collection site. They are located at:

Medicus Building
12615 E. Mission, Suite 100
Spokane, WA 99216

- (b) Security

The rule provides for a minimum level of security for both the collection sites and the specimen.

- (1) Site Security:

- A collection site totally dedicated to urine collection shall be secure at all times.
- A facility that is not totally dedicated to urine collection shall be secure during period of DOT drug testing urine collections.
- Facilities normally used for other purposes may be secured by the following methods:
 - Visual inspection
 - Prevention of undetected access
 - Effective restriction of access to collection materials and specimens
 - When a public restroom is used, the facility must be posted against access during the entire period of collection. This is to avoid embarrassment and distractions.

- (2) Specimen Security:

When continuous physical security of a collection site is impractical, the following minimum procedures apply:

- The specimen shall remain under the direct control of the collection site person from the time it is received from the donor until the time it is sealed in the mailer; and
- The mailer shall be:
 - Immediately mailed; or
 - Maintained in secure storage until it is mailed; or
 - In the direct control of the collection site person until it is mailed.

- (c) Chain of Custody

When the collection site person receives a DOT specimen, he or she must properly fill out and sign the appropriate chain of custody boxes on the custody and control form. Handling

and transportation of DOT urine specimens must be accomplished through chain of custody procedures. People actually handling the specimen should always be kept at a minimum.

(d) Access to Authorized Personnel Only

The collection site personnel shall:

- Not allow any unauthorized individual in the collection site area where urine specimens are collected and stored.
- Be the only handlers of specimens prior to their being sealed in mailers.
- Be the only persons to monitor collection consistent with Part 40 guidelines.
- Be the only persons to observe collection consistent with Part 40 guidelines.
- Supervise the collection process of only one DOT urine donor at a time. This includes the entire process until the donor has departed or returned to a waiting area.

(e) Privacy

(1-2) DOT procedures for collecting urine specimens shall allow individual privacy. EXCEPTION: An individual may lose that privacy if there is a reason to believe that he or she may alter or substitute the specimen to be provided. The following lists the only circumstances which would create a reasonable belief of alteration or substitution under this part:

- (i) An individual's specimen is outside the normal temperature range (32.5°F - 37.7°C/90.5° - 99.5°F) and he/she refuses to have an oral body temperature measurement or he/she does provide an oral body temperature measurement and the reading varies by more than 1°C/1.8F from the temperature of the specimen.
- (ii) The individual's last provided specimen was determined by the laboratory to have a specific gravity of less than 1.003 and creatinine concentration below .2g/l.
- (iii) The collection site person observes the donor acting in such a manner to clearly and unequivocally indicate an attempt to substitute or adulterate the specimen. EXAMPLE: There is blue dye in the urine container when the collector receives it.
- (iv) The specimen is being collected as a follow-up or return-to-work test under DOT agency rules for an individual who has previously had an MRO verified positive DOT test.

NOTE: When circumstances outline in (i) or (iii) above exist, the collection site person must collect a second specimen under direct observation. When circumstances (ii) or (iv) exist, the employer may elect to have subsequent collections conducted under direct observation.

- (3) Before conducting a collection under direct observation, the collection site person must:
 - Get his/her supervisor or a representative to renew and concur in advance of the actual collection, and;
 - Ensure that the observation of the collection is conducted by a collection site person of the same gender as the donor.

(f) Integrity and Identity of Specimen

Employers must take precautions to; 1 - ensure that DOT specimens are not adulterated or diluted during the collection, and 2 - ensure that the data on the specimen bottle and the Custody and Control form can identify the specimen donor. The following lists are the minimum safeguards that employers shall utilize to accomplish the above mentioned goals:

- (1) Collection Site Water Sources
 - Toilet tank bowls shall contain bluing agents;
 - No other source of water in the urination enclosure where practical; and
 - When urination enclosures contain a water source, they must be effectively secured or monitored to prevent dilution of the specimen.
- (2) Collection site personnel shall positively identify DOT donor by photo I.D. or employer representative verification of the donor's identity. The collector shall not proceed with the collection until positive identification is made. The collector shall present his/her identification when requested to do so by the donor.
- (3) The collector shall contact the appropriate authority (e.g., supervisor or designated employer representative) for direction when a donor fails to arrive at the assigned time for a collection.
- (4) The collection site person shall have donors remove unnecessary outer garments along with purses or briefcases (wallets may be retained). Donors shall not be requested or required to remove other items of clothing such as shirts, pants, dresses, underwear,

etc.; nor, shall they be requested or required to wear a hospital or examination gown while providing the specimen. The collector shall receipt the donor's personal belongings if requested to do so.

- (5) The collector shall have the donor wash his/her hands prior to urination.
- (6) Once the donor's hands are washed, he/she shall remain in the presence of the collector until the donor enters the urination enclosure. The donor shall not have access to any water fountain, faucet, soap dispenser, cleaning agent, or other materials which could be used to adulterate the specimen.
- (7) The donor shall give his/her specimen in the privacy of the urination enclosure after the collector has provided the donor with a specimen bottle or collection container (prewrapped in a protective covering).
- (8) The collection site person shall note any unusual circumstance on the Custody and Control form.
- (9) When monitoring a collection in a public rest room:
 - The collector shall be of the same gender as the donor (unless the collector is a licensed medical person) and accompany the donor into the secured public rest room.
 - A toilet bluing agent shall be used in the toilet when possible; but, if not, the collector shall instruct the donor not to flush the toilet until after the specimen is given to the collector.
 - The collector shall remain in the rest room outside the enclosure until the specimen is collected.
 - The donor will flush after surrendering the specimen.
 - The collector and donor will then complete the necessary portions of the Custody and Control form.
- (10) Upon receipt of the specimen, the collector must first determine if it contains at least 60 milliliters of urine. If there is not a sufficient urine specimen, the collector shall discard it and instruct the donor to drink fluids and try again in a reasonable amount of time.
 - (i) The following rules apply when a donor is still unable to provide a sufficient, specimen:
 - In some DOT agency defined post-accident or reasonable cause test situations, the donor shall remain in visual contact of the collection site

person and consume fluids for up to eight hours from the beginning of the collection procedure or until a complete specimen is provided.

- In other DOT agency drug testing situations, the employer may elect to follow the procedures set out in the previous paragraph (consistent with any applicable hours of service requirements) or may elect to discontinue the collection and reschedule it at a later time.
- In the event that a donor cannot provide a complete specimen within the maximum of eight hours allowed or at a subsequent collection, the MRO shall refer the donor for a medical evaluation to determine whether a valid medical reason exists for the donor's scarce urine output or if the donor is refusing to provide a specimen. The evaluation need not take place in preemployment testing cases. The MRO shall report his conclusions to the employer in writing.

(ii) If the employer selects the option of split sample (urine from a single void, divided into two specimen bottles) collection, the following procedure shall be followed:

- The donor shall urinate into a collection container. The collector shall take a temperature reading and, in the presence of the donor, pour off the contents into two specimen bottles.
- The first pouring of 60 milliliters shall be into the DOT specimen bottle. If there is no additional urine for the second bottle, the DOT sample will still be processed for testing.
- Whenever there is a remainder of urine after the DOT specimen has been poured, up to 60 milliliters shall be poured into the second (or split) bottle.
- All Part 40 requirements still apply. The appropriate copy of the Chain of Custody form must accompany each bottle in the process. The second or split sample must be stored in a secured, refrigerated environment until shipped to a DHHS laboratory.
- If the DOT specimen is positive, the donor, within 72 hours of notice by the MRO of the positive result, may request that the MRO direct the split sample to a DHHS certified laboratory to be tested for the presence of drugs that were reported positive on the original DOT sample. The MRO shall honor all timely requests to have split samples tested. The laboratory shall

transmit the results of the split sample test to the MRO. Laboratory analysis of the split sample is conducted for the presence of the drug only and is not subject to DHHS cut-off levels.

- Action required by DOT agency regulations (i.e., removal of the donor from his/her sensitive safety position) is not stayed pending the outcome of the split sample test.
 - If a split sample is negative, the MRO shall cancel the test.
- (11) After the collector receives the specimen, the donor will be allowed to wash his or her hands.
- (12-13) The collector must measure the specimen temperature within four minutes of urination with an accurate, non-contaminating temperature measuring device. A donor may offer to have his or her temperature taken orally to counter any reasonable belief of alteration or substitution.
- (14) The collector shall also immediately examine the specimen for color and visual signs of contamination. Any irregularities shall be noted on the Custody and Control form.
- (15-16) All specimens showing some sign of being adulterated will be forwarded to the laboratory for testing. However, a collector shall subsequently conduct a direct observation collection by a same gender collection site person in each of the following situations:
- (i) Specimen temperature out of range and donor's oral temperature is also out of range (not within 1°C/1.80°F of the urine specimen), or the donor refuses to have his/her oral temperature taken.
 - (ii) The collector observes clear and convincing conduct of an attempt to adulterate or dilute a specimen on the part of the donor.
- (17-22) Both collector and donor need to be present together for the procedures contained in this paragraph:
- The specimen shall remain in view of both parties prior to its being sealed and labeled.
 - The collector shall seal and label all specimens. He or she shall enter all data on the label (date, specimen number, other identifying information as required by the employer).
 - The donor shall initial the label to certify that it is the specimen provided by the donor.
 - The collector shall complete the Custody and Control form by ensuring that all necessary specimen identification data has been entered. Then the

collector shall sign the certification statement in the collector's section of the Custody and Control form.

- The collector shall ask the donor to read and sign the donor's certification contained on the MRO copy and donor copy of the Custody and Control form (copy 3 and 4).
- The employee may be required to sign a consent or release form. This form authorizes collection and testing of the specimen and/or release of results by the laboratory to the employer. Depending on the situation, they may be required by DOT agency rule, collection facility, or laboratory.

THE EMPLOYEE CANNOT BE REQUIRED TO WAIVE LIABILITY OF NEGLIGENCE AGAINST ANY PERSON OR TO INDEMNIFY ANY PERSON THAT PARTICIPATES IN THE COLLECTION, HANDLING, OR ANALYSIS OF THE SPECIMEN.

(23-24) The collector shall indicate receipt of the specimen by printing and signing his/her name in the appropriate box of the Chain of Custody portion of the Custody and Control form. The specimen and Custody and Control form are now ready to be prepared for shipment.

(25) If the collector needs to move around in the collection site work area during the Chain of Custody process, he or she must keep personal control of the specimen and Custody and Control form or secure them. If it becomes necessary for the collector to leave the collection site between the time that the specimen is received and securement of the sample with an identifying label bearing the appropriate specimen identification number and seal initialed by the donor, then that collection is nullified. A new collection may begin at the election of the employer.

(g) **Collection Control**

To the maximum extent possible, collection site personnel shall keep the donor's specimen bottle within sight, both before and after the donor has urinated.

(h) **Transportation to Laboratory**

The collection site shall arrange to ship the specimen to the laboratory in shipping containers that minimize the likelihood of transport damage. The containers shall be sealed with tamperproof tape. The collection site person shall sign and enter the date of shipment on the tape. The collector shall ensure that the appropriate Custody and Control documentation is enclosed or attached in the container.

(i) **Failure to Cooperate**

When an employee refuses to cooperate with the collection process, the collector shall notify the employer representative and note the non-cooperation on the Custody and Control form.

(j) **Employee Requiring Medical Attention**

Where a specimen is required to be collected from an employee needing medical attention (normally post-accident testing), necessary medical treatment shall not be delayed for collection purposes.

(k) **Use of Chain of Custody**

A chain of custody shall be used to track the entire DOT drug testing process for each specimen collected. Each transfer or handling of a specimen shall be documented by:

- The date,
- Purpose,
- Individual in control

Transfers and handling of specimens should always be kept at a minimum.

(1) Retention of Samples and Additional Testing

Samples that yield positive results on confirmation must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, the operator, the Administrator, or, if the operator is subject to the jurisdiction of a state agency, the state agency may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

8.09 POSITIVE TEST/REFUSAL TO TEST

Inland Empire Paper Company may not knowingly employ someone who has failed a drug test. This is required under 49 CFR Part 40. Nor may Inland Empire Paper Company continue to employ someone who refuses to take a drug test. (This does not apply to an employee who has been recommended for return to duty by the medical review officer).

An employee who fails a drug test will be given the opportunity to enroll in a recognized rehabilitation chemical dependency program. Upon satisfactory completion of a written program and a medical review officer's return to work clearance, the employee will be returned to work.

If an employee refuses a drug test or willfully alters the test procedures, causing the test to be invalid, those actions will be considered as a verified positive test. Employees will be given the opportunity to enroll in a recognized rehabilitation chemical dependency program. Upon satisfactory completion of a written program and medical review officer's return to work clearance, the employee will be returned to work.

Should the employee again

- fail a drug test,
- refuse a drug test, or
- willfully alter the test procedures causing the test to be invalid,

the employee will be terminated.

8.10 RECORD KEEPING

Inland Empire Paper Company will keep the following information separate from the employees personnel file:

- 1) Records that demonstrate the collection process conforms to this part will be kept for at least three years.
- 2) Records of employee drug test results that show employees failed a drug test, and the type of test failed (e.g., post-accident), and records that demonstrate rehabilitation, if any, will be kept for at least five years, and include the following information:
 - (i) The functions performed by employees who failed a drug test.
 - (ii) The prohibited drugs which were used by employees who failed a drug test.
 - (iii) The disposition of employees who failed a drug test (e.g., termination, rehabilitation, leave without pay).
 - (iv) The age of such employee who failed a drug test.
- 3) Records of employee drug test results that show employees passed a drug test must be kept for at least one year.
- 4) A record of the number of employees tested, by type of test, (e.g., post-accident), must be kept for at least five years.
- 5) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least three years.
- 6) Information regarding an individual's drug-testing results or rehabilitation must be released upon the written consent of the individual and as provided by DOT Procedures. Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the Administrator or the representative of a state agency upon request.

8.11 REPORTING OF ANTI-DRUG TESTING RESULTS

Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CRF Part 40 (at §40.25 and appendix H to Part 40), not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to PHMSA. Once PHMSA requests the MIS form from an operator with less than 50 covered employees, WAC 480-93-200 (10) requires that the form be simultaneously submitted to the UTC.

8.12 EMPLOYEE ASSISTANCE PROGRAM

In addition to the Department of Transportation requirements, Inland Empire Paper Company recognizes that drug abuse may cause personal problems for its employees and their families.

If you have a substance abuse problem or know of someone at Inland Empire Paper Company that does, United Way of Spokane County has an assistance hot line that is staffed twenty-four hours per day, seven days per week. Their phone number is (509) 838-4428.

They are able to give help with:

Alcohol/Drug	Health Organizations
Education/Training	Senior Services
Family Life Education	Physical/Developmental Disabilities
Safety/Legal	Emergency Needs
Counseling	Crisis Intervention
Child/Youth Services	

Training for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

8.13 LABORATORIES

Inland Empire Paper Company is subject to 49 CFR Part 40 and must use laboratories certified under the Department of Health and Human Services (DHHS). The DHHS agency that certifies drug testing laboratories is the National Institute of Drug Abuse (NIDA).

Inland Empire Paper Company will utilize the following laboratory:

Pathology Associates Medical Laboratories
110 West Cliff Drive
Spokane, WA 99204
(509) 755-8991

INDEX

	<u>Page</u>
9.0 <u>Alcohol Misuse Prevention Plan</u>	
9.1 Statement	1
9.2 Persons Covered	2
9.3 Definitions	3
9.4 Disallowed Alcohol Use	4
9.5 Training	5
9.6 Alcohol Tests Required	7
9.7 Referral, Evaluation, and Treatment	10
9.8 Retention of Records	12
9.9 Access to Facilities and Records	14

9.01 **Statement**

The purpose of this plan is to establish a program designed to help prevent accidents and injuries resulting from the misuse of alcohol by covered employees performing covered functions for Inland Empire Paper Company.

These procedures are established in response to the DOT Procedure for Transportation Workplace Testing Programs, 49 CFR, Part 4, and Pipeline Safety Regulations Part 199.

9.02 **Persons Covered**

49 CFR Part 199.3 defines a covered employee as a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors regulated by Part 192, 193, or 195 of the pipeline safety regulations.

The following positions are covered under Inland Empire Paper Company's alcohol misuse prevention plan:

Power Plant Operators	Technical Superintendent
Shift Supervisors	Maintenance Superintendent
General Manager	Pulp Mill Superintendent
Instrument Repairman	Paper Machine Superintendent
Production Manager	Project Engineer
Environmental Compliance Eng.	Ray Allen, Contractor

If any of these covered persons have questions about the plan materials, they should contact the human resources manager. Each covered person shall receive a copy of the plan.

9.03 DEFINITIONS

Accident means an incident reportable under part 191 of this chapter involving gas pipeline' facilities or LNG facilities, or an accident reportable under part 195 of this chapter involving hazardous liquid pipeline facilities.

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

Covered employee, employee, or individual to be tested mean a person who performs a covered function, including persons by operators, contractors engaged by operators, and employed by such contractors.

Covered function means an operation, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter that is performed on a pipeline or on an LNG facility.

DOT Procedures means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in part 40 of this title.

Operator means a person who owns or operates pipeline facilities subject to part 192, 193, or 195 of this chapter.

Performs a covered function includes actually performing, ready to perform, or immediately available to perform a covered function.

Refuse to submit, refuse, or refuse to take means behavior consistent with DOT Procedures concerning refusal to take an alcohol test.

State agency means an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws.

9.04 **DISALLOWED ALCOHOL USE**

1) Alcohol concentration:

IEP prohibits a covered employee from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater.

2) On-duty use:

IEP prohibits a covered employee performing covered functions.

3) Pre-duty use:

IEP prohibits a covered employee from using alcohol within four hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty.

4) Use following an accident:

IEP prohibits a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident from using alcohol for eight hours following the accident, unless he or she has been given a post-accident test or IEP has determined that the employee's performance could not have contributed to the accident.

9.05 TRAINING

Inland Empire Paper Company will provide 60 minutes of training to persons designated to determine whether reasonable suspicions exist to require a covered employee to undergo alcohol testing. This training includes such things as physical, behavioral, speech, and performance indicators of probably misuse.

Contractor Employees

With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this subpart be carried out by the contractor provided:

- a) The operator remains responsible for ensuring that the requirements of this subpart and part 40 of this title are complied with; and
- b) The contractor allows access to property and records by the operator, the covered employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes of monitoring the operator's compliance with the requirements of this subpart and part 40 of this title.

IEP Obligation (to Promulgate Alcohol Use

Policy

Will reward
per Tom
Brown
5/7/08

Inland Empire Paper Company will provide educational materials that explain alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements.

- 1) IEP shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under this subpart, and to each person subsequently hired for or transferred to a covered position.
- 2) IEP will provide written notice to representatives of employee organizations of the availability of this information.

The materials to be made available to covered employees shall include detailed discussion of at least the following:

- 1) The identity of the person designated by IEP to answer covered employee questions about the materials.
- 2) The categories of employees who are subject to the provisions of this subpart.

- 3) Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this subpart.
- 4) Specific information concerning covered employee conduct that is prohibited by this subpart.
- 5) The circumstances under which a covered employee will be tested for alcohol under this subpart.
- 6) The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.
- 7) The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart.
- 8) An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.
- 9) The consequences for covered employees to have violated the prohibitions under this subpart, including the requirements that the employee be removed immediately from covered functions, and the procedures under §199.243.
- 10) The consequences for covered employees to have an alcohol concentration of 0.02 or greater but less than 0.04.
- 11) Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

(c) not addressed optional

9.06 ALCOHOL TESTS REQUIRED

The Department of Transportation requires (49 CFR Part 199.225) the following tests for the presence of alcohol:

a) **Post-accident:**

As soon practicable following an accident, each operator shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section shall be based on the operator's determination, using the best available information at the time of the determination, that the covered employee's performance could not have contributed to the accident.

If a test required by this section is not administered within two hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a post-accident test is not administered within eight hours following the accident, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the operator or operator representative of his/her location if he/she leaves the scene of the accident prior to submission to such test, may be deemed by the operator 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 a covered employee for leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

b) **Reasonable Suspicion Testing:**

Each operator shall require covered employee to submit to an alcohol test when the operator has reasonable suspicion to believe that the employee has violated the prohibitions of the plan.

The operator's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, observations concerning the appearance, behavior, speech, or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms

of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

Alcohol testing is authorized by this section only if the observations required above are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance. A covered employee may be directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions.

If a test required by this section is not administered within two hours following the determination under the second paragraph of this section, the operator shall prepare and maintain on file a record stating the reasons the test as not promptly administered. If a test required by this section is not administered within eight hours following the determination above, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. Records shall be submitted to RSPA upon request of the administrator.

Notwithstanding the absence of a reasonable suspicion alcohol test under this section, an operator shall not permit a covered employee to report for duty or remain on duty requiring the performance of covered functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall an operator permit the covered employee to perform or continue to perform covered functions, until:

- an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or
- The start of the employee's next regularly scheduled duty period, but not less than eight hours following the determination above that there is reasonable suspicion to believe that the employee has violated the prohibitions in this subpart.

Except as provided above, no operator shall take any action under this subpart against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an operator with the authority independent of this subpart from taking any action otherwise consistent with law.

c) Return-to-duty testing:

Each operator shall ensure that before a covered employee returns to duty requiring the performance of a covered

function after engaging in conduct prohibited by this plan, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

d) Follow-up testing:

1. Following a determination that a covered employee is in need of assistance in resolving problems associated with alcohol misuse, each operator shall ensure that the employee is subject to unannounced follow-up, alcohol testing as directed by a substance abuse professional.
2. Follow-up testing shall be conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions.

e) Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04:

Each operator shall retest a covered employee to ensure compliance. If an operator chooses to permit the employee to perform a covered function within eight hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

f) Refusal to submit to a required alcohol test:

IEP will require a covered employee to submit to a post-accident alcohol test, a reasonable suspicion alcohol test, or a follow-up alcohol test. IEP will not allow an employee who refuses to submit to such a test to perform or continue to perform covered functions.

Add 237 a & b requirements here

X

9.07 REFERRAL, EVALUATION, AND TREATMENT

- a) Each covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 (having an alcohol concentration of 0.04 or greater, on duty use of alcohol, pre-duty use of alcohol, consuming alcohol after an accident, or refusal to submit to a required alcohol test) of this subpart shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol. This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.
- b) Each covered employee who engages in conduct prohibited under §§199.215 through 199.223 shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse.
- c) (1) Before a covered employee returns to duty requiring the performance of a covered function after engaging in conduct prohibited by §§199.215 through 199.223 of this subpart, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
(2) In addition, each covered employee identified as needing assistance in resolving problems associated with alcohol misuse-
 - (i) Shall be evaluated by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed under paragraph (b) of this section, and
 - (ii) Shall be subject to unannounced follow-up alcohol tests administered by the operator following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the employee's return to duty. 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.
- d) Evaluation and rehabilitation may be provided by IEP, by a substance abuse professional under contract with the operator, or by a substance abuse professional not affiliated with the operator. The choice of substance abuse professional and assignment of costs shall be made in accordance with the operator/employee agreements and operator/employee policies.

- e) IEP shall ensure that a substance abuse professional who determines that a covered employee requires assistance in resolving problems with alcohol misuse does not refer the employee to the substance abuse professional's private practice or to a person or organization from which the substance abuse professional receives remuneration or in which the substance abuse professional has a financial interest. This paragraph does not prohibit a substance abuse professional from referring an employee for assistance provided through-
- (1) A public agency, such as a State, County, or Municipality;
 - (2) The operator or a person under contract to provide treatment for alcohol problems on behalf of the operator;
 - (3) The sole source of therapeutically appropriate treatment under the employee's health insurance program; or
 - (4) The sole source of therapeutically appropriate treatment reasonably accessible to the employee.

Each covered employee who has engaged in conduct described in this section may contact the following organizations to evaluate and resolve problems associated with the misuse of alcohol:

Employee Assistance Program
United Way of Spokane
838-4428

Greg Wonnacott
Occupational Health Solutions
407 E. 2nd Ave. Suite 200
Spokane, WA 99220
(509) 534-6821

9.08 RETENTION OF RECORDS

All records of the IEP alcohol plan will be maintained by IEP in a secure location at 3320 N. Argonne, Spokane, WA. 99212-2099.

Records will be retained according to the following schedule:

- 1) **Five Years:** Records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, employee evaluation and referrals, and MIS annual report data shall be maintained for a minimum of five years.
- 2) **Two Years:** Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of 2 years.
- 3) **One Year:** Records of all test results below 0.02 (as defined in 49 CFR Part 40) shall be maintained for a minimum of 1 year.
- 4) **Types of Records:**

The following specific records shall be maintained:

- Records related to the collection process:
 - Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.
 - Documents generated in connection with decisions on post-accident tests.
 - Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.
- Records related to test results:
 - The operator's copy of the alcohol test form, including the results of the test.
 - Documents related to the refusal of any covered employee to submit to an alcohol test required by this subject.
 - Documents presented by a covered employ to dispute the result of an alcohol test administered under this subpart.
 - Records of information obtained from previous employers concerning (drug) and alcohol test results of employees must be kept for 3 years.
 - Records of the inspection, maintenance, and calibration of EBTS must be kept for 2 years.
 - Records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02 must be kept for 1 year.
- Records related to other violations of this subpart.

- Records related to evaluations:

- Records pertaining to a determination by substance abuse professional concerning covered employee's need for assistance.
- Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

- Records related to education and training of supervisors.

9.09 ACCESS TO FACILITIES AND RECORDS

- a) Except as required by law or expressly authorized or required in this subpart, no employer shall release covered employee information that is contained in records required to be maintained in §199.227.
- b) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. The operator shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.
- c) When requested by the National Transportation Safety Board as part of an accident investigation, an operator shall disclose information related to the operator's administration of any post-accident alcohol tests administered following the accident under investigation.
- d) An operator shall make records available to a subsequent employer upon receipt of the written request from the covered employee. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the employee's written request.
- e) An operator may disclose information without employee consent as provided by DOT Procedures concerning certain legal proceedings.
- f) An operator shall release information regarding a covered employee's records as directed by the specific, written consent of the employee authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

g) added 5/7/08 By Tom Brown
h) " " " "

Added Page 15 to Cover
Contractors per Item #19 non-compliance
per Tom Brown 5/7/08