ADMINISTRATIVE RULES:
SUPPLEMENT TO CHAPTER 19 AS AUTHORIZED BY SECTION 19-27

ARTICLE 2: DRUG OR ALCOHOL USE

3.1 In General

A. Purpose and Scope

The overall goal of this policy and drug/alcohol testing is to ensure an alcohol and drug-free workplace, to reduce accidents and injuries and to comply with relevant federally mandated drug and alcohol testing.

In addition to the City's General Drug and Alcohol Policy, City employees who perform safety sensitive duties requiring a Commercial Driver's License (CDL) shall be subject to the rules of the Federal Motor Carrier Safety Administration governing drug and alcohol testing (49 CFR Part 40).

In addition to the City's General Drug and Alcohol Policy, City employees employed to operate a revenue service vehicle at any time, in revenue service or not, controlling the dispatch or movement of a revenue service vehicle or maintaining a revenue service vehicle, are subject to the rules of the Federal Transit Administration governing drug and alcohol testing (49 CFR 655).

In addition to the City's General Drug and Alcohol Policy, City employees who perform safety sensitive/regulated duties as outlined by the Federal Railroad Administration, shall be subject to the federal regulations of 49 CFR 219.

B. General Policy

The City of Columbia recognizes that the state of employees' physical condition affects their job performance, their availability for work, their ability to perform certain types of work, and may affect their opportunities for continued employment or advancement. The City also recognizes that drug and alcohol abuse ranks as a major health problem which affects an individual's physical condition and causes untold trauma and expense, not only to the employee, but also ultimately to the City as an employer.

It shall be the general policy of the City to prohibit the possession, manufacture, sale, transference, use or ingestion of non-prescribed controlled substances or the use or ingestion of alcohol or the unauthorized possession, sale or transference of alcohol on City premises, while operating City vehicles and equipment, while engaged in the performance of job duties or while otherwise representing the City of Columbia in any capacity and during off-site lunch periods or breaks when an

employee is expected to return to work or on call for work. Employees subject to drug testing rules may be tested for the following prohibited substances: alcohol, marijuana, cocaine, opiates, amphetamines, heroin, ecstasy, and phencyclidine.

As a condition of employment, employees of the City of Columbia are expected to fully comply with this policy, to be free from the use of illegal drugs and to abstain from on duty alcohol use. Questions about the City's drug and alcohol policy may be directed to either the Human Resources Director, ext.7235, City Counselor, ext. 7223, or designated employer representative, ext.6391.

This policy applies to Job Applicants, Probationary Employees, Permanent Full and Part-time and Temporary Employees of the City.

C. Definitions

As used in this policy, the listed terms shall have the following meaning:

"Alcohol." The intoxicating agent in a beverage including alcohol, ethyl alcohol or other low molecular weight alcohols.

"Alcohol Use." The consumption of a beverage, mixture, or preparation, including any medication, containing alcohol. An Alcohol fact sheet outlining the symptoms and health effects of alcohol misuse is included in Section 3.8 of this policy.

"Applicant." Any individual selected through a direct hire process who is not currently in the City's employ and as a condition of employment must meet the applicable conditions of this policy prior to employment.

“BAT.” Breath Alcohol Technician, a person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

“CDL.” Commercial Driver License, an employee who performs safety sensitive functions which requires this licensure to operate equipment and vehicles are subject to Federal Regulations from the U.S. Department of Transportation governing Drug and Alcohol Testing.

"City Premises." Any and all property, facilities, land, structures, and vehicles owned, leased, used or under the control of the City.

"Collection Site." A place designated by the City where Employees present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of drugs/alcohol.

“DOT.” Department of Transportation coordinates and institutes national transportation programs to ensure highway, railroad and airline safety.

“Direct Observed Collection.” The observer is the same gender as the employee. The employee raises his or her shirt, blouse, or dress/skirt, as appropriate, above the waist: and lowers clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After it is determined that the employee does not have such a device, the employee may return clothing to its proper position for observed urination. As the observer, you must watch the urine go from the employee’s body into the collection container.

"Drug." Any non-food substance, other than alcohol or such over-the-counter pain relievers as aspirin or cold remedies, capable of altering the mood, perception, pain tolerance, sobriety or judgment of the person consuming it.

“EBT.” Evidential Breath Testing Device, a device approved by NHTSA (National Highway Transportation Safety Association) for the evidential testing of breath at the .02 percent and .04 percent alcohol concentrations, placed on NHTSA’s Conforming Products List (CPL) for Evidential Breath Testing Devices and identified on the CPL as conforming with the model specifications available from NHTSA’s Traffic Safety Program.

“Ecstasy Screen.” reports the drugs MDMA, MDA, MDEA which are methylenedioxymethamphetamine, methylenedioxyamphetamine, and methylenedioxyethylamphetamine.

5 Panel Drug Testing:

(1) Marijuana (THC)
(2) Cocaine
(3) Opiates:
- Codeine
- Morphine
- 6-AM (Heroin – street name for 6-acetylmorphine)
- Hydrocodone
- Oxycodone
- Hydromorphone

(4) Amphetamines:
- Amphetamine
- Methamphetamine
- MDMA
- MDA
- MDEA

(5) Phencyclidine (PCP)

"Illegal/Unauthorized drug." Any drug which is not legally obtainable, any drug which is legally obtainable but has been illegally obtained and/or is not being used for its prescribed purpose or in the prescribed manner.

"Legal Drug." Any prescribed drug or over-the counter drug which has been legally obtained and is used for the purpose for which it was prescribed or manufactured.

"Medical Review Officer (MRO)." A licensed physician responsible for receiving and reviewing laboratory results generated by this policy, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results together with an Employee's history and any other relevant biomedical information.

“Monitored Collection.” The monitor should be the same gender, unless the monitor is a medical professional (nurse, doctor, physician assistant, technologist, or technician, licensed or certified to practice in the jurisdiction). Secure the room being used for the monitored collection so no one else can enter until after the collection has been completed. A monitor does not watch the employee urinate into the collection container. If the monitor hears sounds or makes other observations indicating an attempt to tamper with a specimen, there must be an additional collection under “direct observation”.

"Possession." Actual or constructive care, custody, control or immediate access to.

"Reasonable Suspicion." When a supervisor has reason to believe the appearance and/or conduct of an Employee are indicative of the use of alcohol, drug(s) or both.

“Refusal To Test”: (1) failure to appear for a test in specified time frame (excludes pre-employment testing), (2) once the test is underway, failure to remain at the testing site until the testing process is complete, (3) failure to provide a sufficient volume of urine or breath without a valid medical explanation,(4) failure to undergo a medical examination as directed by the MRO as part of the verification process or as directed by the Designated Employee Representative (DER), (5) failure to cooperate with any part of testing process, (6) fail to permit the direct observation or monitoring of specimen donation when so required, (7) fail or decline to take an additional drug test required by the employer or collector, (8) a drug test result verified by the MRO as adulterated or substituted , (9) possess or wear a prosthetic or other device that could be used to interfere with collection, (10) admit to collector or MRO that you adulterated or substituted the specimen, (11) failure to sign the certification on Step 2 of the Alcohol Test Form (12) tampering, adulterating, or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

“Safety Sensitive” An employee who is required to hold a commercial driver license (CDL) to operate a commercial vehicle is considered to perform safety sensitive functions. For Transit employees, it includes operators of revenue

vehicles, dispatchers, maintaining transit vehicles and any armed security. This covers any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

"Substance Abuse Professional (SAP)." Evaluates DOT regulated employees who have violated a drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up care and aftercare. Must be a licensed physician (M.D. or D.O.) or a licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or a drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or certified by: the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC) with knowledge of and clinical experience in the diagnosis and treatment of alcohol/substance abuse related disorders. Requires completion of qualification training and SAP certification per 49 CFR Part 40.

“Substance Abuse Counselor (EAP)” evaluates non-DOT regulated employees who have violated the City of Columbia Drug and Alcohol Policy and this person makes recommendations concerning education, treatment, follow-up care and aftercare. The Substance Abuse Counselor is coordinated through EAP.

“49 CFR Part 40.” Federal Procedures for Transportation workplace drug testing programs. These rules are available for review in the Human Resource Department.

3.2. Prohibited Conduct

A. The manufacture, distribution, unlawful dispensing, use, possession or being under the influence of any illegal/ unauthorized drug, while on the City's premises or during working time or during a meal break when an Employee is expected to return to work or on call for work is strictly prohibited.

1. An Employee may use and possess a legal drug while on the City's premises or during working time, provided the Employee uses the drug in accordance with a physician's or the package instructions, does not distribute the drug to another, and the Employee has reported the use of any mood altering or judgment or performance impairing drug to Employee Wellness or his/her immediate supervisor before the beginning of his/her work shift. When an employee has reported the use of a legal drug, Employee Wellness shall notify the employee’s supervisor of potential impairing effects. If an employee reports the use of a legal drug to his/her supervisor, the supervisor shall report this information to Employee Wellness. Employee Wellness staff will consult with the City

physician on potential impairing effects and notify the supervisor of any potential impairing effects of the drug. It shall be the Employee's responsibility to inquire of the prescribing physician or a pharmacist whether or not the prescribed or over-the-counter medication is mood altering or judgment or performance impairing. The City reserves the right to have a physician of its choice determine whether an Employee can safely perform their job while using or being under the influence of any legal drug so reported. In addition, the City reserves the right to restrict such Employee's work activity or presence on the City premises.

B. Use, possession or ingestion of alcohol during working hours, including lunch hours or while on City premises when associated with working hours, is strictly prohibited. However the possession of alcoholic beverages by employees whose job assignment includes the buying, selling, distributing, dispensing or transferring the beverage is excluded, as is the use of alcohol containing solvent, cleaners and other chemicals for the purpose for which they were manufactured.

C. It is a violation of this policy for Employees to report to work, or to enter onto the City premises while being in a condition impaired for work due to effects, symptoms or side effects of alcohol and/or drugs.

D. Failure of an employee to submit to any drug/alcohol testing required under this policy, including but not limited to failure to report in a timely manner to a collection site, sign any required consent form or otherwise fully cooperate in the collection of any breath/urine specimen, is also strictly prohibited. If any employee refuses to be tested, the refusal shall be treated as a positive test and the employee shall be subject to disciplinary action up to and including termination.

E. Conviction Reporting

1. In order that the City shall comply with all state or federal statutes or rules requiring the City to provide a drug-free workplace, any employee who is convicted of conduct in the workplace violating a criminal drug statute shall notify his department head of the conviction within five calendar days after the conviction. Failure to report such convictions is a violation of this policy. Within 30 days following a conviction, the City shall impose the appropriate remedial action and/or rehabilitation measures on the employee as set out in this drug and alcohol policy.

2. An employee who is required by the City to maintain a commercial driver license in order to perform his/her job, must notify an immediate supervisor of any state, county or municipal violation (other than parking) within 30 days of conviction, and report any license suspension/revocation, cancellation/disqualification or out of service order by the end of the business day after the driver receives notice. The

employee is required to complete and submit the CDL conviction form to his/her immediate supervisor who will send the original copy to the Human Resources Department.

3.3 Employee Assistance Program (EAP)

A. The Program

The City shall maintain a contract Employee Assistance Program (EAP) which will provide counseling or referral for drug and alcohol abuse. The City shall provide a list of available resources for drug/alcohol counseling if the Employee chooses to seek assistance outside the City's EAP. Accumulated leave or leave without pay may be granted for treatment, counseling or rehabilitation under applicable ordinance provisions. It will be the Employee's responsibility to comply with a City request for referral and diagnosis and to cooperate fully with any prescribed therapy.

Rehabilitation is the responsibility of the Employee. In cases of mandatory referral to the EAP as a part of a disciplinary disposition or in compliance with a federal rule, the City shall require the counseling agency to report to the City: (1) that the Employee is attending the mandated counseling; (2) that the Employee is arriving on time to scheduled appointments and is cooperating with the counselor; (3) that the Employee has completed counseling or therapy and is released by the counseling provider; and (4) if any medical leave is required.

B. Self Help

In applying this Drug and Alcohol Policy where prior to any drug or alcohol testing or the occurrence of an event giving rise to a reasonable suspicion of current drug or alcohol use an Employee seeks help to refrain from drug or alcohol use, either by inquiry to the City or entering a counseling or rehabilitation program, the City will assist the Employee in locating and attending a suitable program and exercise care to maintain the confidentiality of the inquiry and program participation.

1. No Employee shall have his or her job security jeopardized solely because he or she has made a voluntary request for diagnosis and appropriate therapy for alcoholism or drug dependency. However, the City of Columbia is concerned by those situations where use of alcohol or other drugs affects an Employee's job performance, causes a potential safety problem or is detrimental to the City's business, and will take those actions that are required for the good of the City as a whole. Self-referral to a treatment program may not be used as a protection from supervisory actions taken as a result of job performance deficiencies.

2. The City may also grant the Employee an appropriate leave of absence (generally not to exceed twelve weeks) or other reasonable accommodation so the Employee can undergo a mutually agreed upon rehabilitation program. To the extent permitted by law, any leave or other accommodation granted pursuant to this policy will, absent extenuating circumstances as determined by the City, be granted only once.

3.4 DRUG AND ALCOHOL TESTING

A. All City employees shall be subject to the following drug or alcohol tests:

1. Pre-Employment Test. The City of Columbia will test job applicants for all permanent positions, temporary positions required to have a Commercial Driver's License, temporary positions for the Police Department and temporary Meter Reader positions for current drug use prior to offering successful applicants City employment. A dilute negative is considered a negative result, and a retest will not be needed unless directed by the MRO. An applicant with a verified positive test will be ineligible for hire for five years.

2. Reasonable Suspicion Testing. When a City Supervisor has reason to believe an Employee is under the influence of drugs or alcohol, the supervisor may require the Employee to undergo drug and/or alcohol testing. The supervisor determining reasonable suspicion shall not supervise or participate in testing procedures.

   (a) Reasonable suspicions shall be grounded upon specific, contemporaneous, articulable observations concerning the appearance, behavior, motor skills, speech or body odors of the Employee, or the physical inability of the employee to do their job assignments.

3. Return to Duty Testing. Return to Duty testing must occur after an Employee has failed a drug and/or alcohol test, or refused to be tested. The Employee must have successfully completed the required education and or rehabilitation program before a Return to Duty test may be given. The Employee must test negative for drugs and/or below .02 percent breath alcohol concentration before resuming job duties.

4. Follow-up Testing. Whenever an Employee has sought self-help or has been mandatorily referred to a drug and/or alcohol rehabilitation program and has completed the program, the City's Medical Advisor or SAP or Substance Abuse Counselor through EAP may require the Employee to participate in follow-up drug and/or alcohol testing. The extent and duration of the testing shall be determined by the City's Medical Advisor, Substance Abuse Counselor (EAP) or SAP if required.

5. All sworn personnel assigned to the City of Columbia Police Department narcotics division shall be subject to random testing.

   (a) The selection of narcotic officers for random testing is accomplished using a computer based number generator which matches an employee's identification number ensuring officers shall have an equal chance of being selected each time the selections are made. Random testing is unannounced and spread through the year, once an officer is notified of test, he/she must proceed immediately to the test site.

B. Testing Procedure. Drug and alcohol testing procedures for DOT employees shall conform to those required by current federal regulations governing the drug and alcohol testing rules which are mandated by the Department of Transportation (49 CFR Part 40 effective August 1, 2001 and all amendments thereafter). Procedures for collecting breath and urine specimens will be posted at the collection site. All drug tests shall be performed by a laboratory certified under Department of Health and Human Services, (DHHS), Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 FR 11970, April 11, 1988 and subsequent amendments thereto. Employees that are in non-safety sensitive positions will be tested in a manner that mirrors 49 CFR Part 40 procedures. However, these tests shall not be performed on federal forms or under federal authority.

1. Specimen Collection. The Human Resources Department will instruct applicants to report to the testing site. Employees will be instructed by the supervisor where and when to report for drug and/or alcohol testing. Employees will also be instructed that they must present a photo I.D. at the time of testing. In cases of reasonable suspicion, the Employee will be transported to the test facility or the City may request a breath or urine specimen collection at the worksite.

   The procedures for collecting urine specimens will follow the procedures set out in 49 CFR PART 40 to safeguard the validity of test results, and ensure the integrity and identity of the urine specimen that is produced. Specimens will be sealed and marked at the time of collection in order to

maintain an intact chain of custody. The procedure will also allow for individual privacy unless, in the determination of the City, the collector, or the MRO there is reason to believe that an Employee may alter or substitute the specimen. Breath alcohol testing will follow Federal Procedures to ensure accuracy, reliability and confidentiality. All specimens, breath and urine, will be accompanied by the appropriate intact and correctly completed chain of custody form.

If testing under this policy is ever required of an Employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the test specimen. However, such an Employee shall promptly, upon request from the City, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.

2. Testing. Drug testing will be performed on urine samples. The initial test will be performed by the enzyme immunochemical assay method. All specimens identified as a positive test on the initial test will be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques. A specimen will be treated as negative if the result of the initial test or the confirmatory test is negative. The City of Columbia utilizes the UMC Toxicology Lab for non-DOT specimen testing and CRL in Lenexa, Kansas for DOT specimen testing.

   (a) Urine samples will be split samples so that if the original specimen test is positive the Employee may request the retained sample be tested. This request must be received by the MRO within 72 hours of Employee's notice of a positive result. The split sample will be tested at a different DHHS Certified Laboratory. The City may request reimbursement for the cost of the test. If the split sample tests negative, the test will be determined to be negative.

   (b) Non safety sensitive pre-employment tests do not have the option for split sample testing.

   (c) Alcohol Testing. Alcohol use will be tested by using Evidential Breath Testing Devices (EBT). Breath Alcohol testing requires the individual to provide a breath sample. Should the initial breath sample have a result of 0.02 percent blood alcohol content or greater, a confirmation test will be conducted within 20 minutes. The confirmation test result takes precedence.

3. Refusal to Test. If an Employee refuses to be tested or alters or attempts to alter the test sample such actions shall be treated as a positive test in addition to being a violation of this policy. Behaviors constituting a test refusal: (1) failure to appear for a test in specified time frame (excludes pre-employment) (2) once test is underway, failure to remain at the testing site until the process is completed, (3) failure to provide volume of breath or urine without valid medical explanation, (4) failure to undergo a medical examination to verify insufficient volume, (5) failure to permit the observation or monitoring of specimen donation when so required, (6) failure to take an additional test required by the employer or collector, (7) failure to cooperate with any part of the testing process, (8) a drug test result that is verified by the MRO as adulterated or substituted, (9) possess or wear a prosthetic or other device that could be used to interfere with the collection process, (10) failure to sign the certification on Step 2 of the Alcohol Test Form (11) admit to the collector or MRO that you adulterated or substituted the specimen (12) tampering, adulterating, or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test

C. Test Results

1. Drug Tests. The MRO will review positive drug test results with the Applicant or Employee before reporting them to the City. The substances for which the test was positive will be identified. The MRO may advise the City of a positive test result without having communicated with the Applicant or Employee about the test results if the Applicant or Employee expressly declines the opportunity to discuss the results of the test, or if the Applicant or Employee cannot be reached after reasonable efforts, per 49 CFR Part 40 by either the MRO or the City's representative.

   If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO will report the test result to the City as negative.

   The MRO may direct the City to conduct an immediate recollection of a negative dilute specimen under direct observation (because the creatinine concentration is at or lower than 2mg/dL to 5mg/dL). Otherwise, (if the creatinine concentration is greater than 5mg/dL) the City will consider a dilute negative as a negative result.

2. Alcohol Tests. If an alcohol breath test results in a reading of 0.02 - 0.039 percent blood alcohol content, the individual shall not return to duty but shall be taken off duty and not returned to work for at least eight (8) hours, and must test below .02 percent alcohol concentration before returning to

work. If an alcohol breath test results in a reading of 0.04 percent blood alcohol content or greater, in addition to the above the Employee must meet with a SAP (DOT) or EAP (non-DOT). This person shall determine when the Employee may return to work.

3. Confidentiality. The results of a positive test shall be kept confidential from the general City work force and public. The results may be known to the test facility, the MRO, City's Designated Employer Representative, SAP (DOT) or EAP (non-DOT) and the Employee. The City may use the results to determine the appropriate response to Employee drug and/or alcohol use and to support its disciplinary or other actions or to defend the City in a Court or Administrative hearing.

   The MRO, SAP (DOT), EAP (non-DOT) and the City shall not release the individual test result of an Employee to any unauthorized party without first obtaining written authorization from the tested individual or as required by law.

   The Employee may, upon written request, obtain copies of any records pertaining to the Employee's use of prohibited drugs, including records pertaining to the Employee's drug test. There shall be no charge for these records.

D. Actions Taken in Response to Test Results

1. An applicant or employee who refuses to be tested will be treated as having had a positive test. Failure to report to a collection site in a timely basis, excludes pre-employment, sign any required consent form or otherwise fail to fully cooperate with the testing procedure shall be treated as a refusal to be tested. Employees refusing to be tested shall be subject to disciplinary action up to and including dismissal. An Employee refusing to be tested is a violation of the City of Columbia Drug and Alcohol policy and shall be removed from duty immediately, referred to a SAP (DOT) or a EAP (non-DOT) and will not be allowed to return to work in either a safety or non-safety sensitive position until a Return to Duty process has been completed. DOT employees must meet all requirements of the Return to Duty process prior to returning to safety sensitive functions as required by 49 CFR Part 40. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions

2. An Employee whose drug test result is reported to the City as positive for the drugs or metabolites of cocaine, amphetamines, cannabinoids, or an opiate or phencyclidine shall be removed from duty, referred to a SAP

(DOT) of a Substance Abuse Counselor (non-DOT) through EAP and shall be subject to disciplinary action up to and including dismissal. Employees will not be allowed to return to work in either a safety or non-safety sensitive position until a Return to Duty process has been completed. DOT employees must meet all requirements of the Return to Duty process prior to returning to safety sensitive functions as required by 49 CFR Part 40. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

a) Probationary and temporary employees who refuse to test or test positive for drugs or alcohol will be terminated.

3. An Employee whose breath test results in a reading of 0.02 - 0.039 percent breath alcohol content shall be immediately removed from duty and not returned to work for at least eight (8) hours. Employees will not be allowed to work in either safety sensitive or non-safety sensitive positions during this 8 hour timeframe. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions. The Employee must take a breath alcohol test with a result less than .02 percent alcohol concentration before returning to duty. An Employee who has a breath test result between 0.02% - 0.039% blood alcohol content shall be referred to a SAP (DOT) or Substance Abuse Counselor (non-DOT) for evaluation and may be subject to disciplinary actions up to an including dismissal.

4. An Employee whose breath test results in a reading of 0.04% blood alcohol content or greater shall be immediately removed from duty. The Employee shall be referred to a SAP (DOT) or Substance Abuse Counselor (non-DOT) for evaluation and may be subject to disciplinary action up to and including dismissal. Employees will not be allowed to return to work in either a safety or non-safety sensitive position until a Return to Duty process has been completed. DOT employees must meet all requirements of the Return to Duty process prior to returning to safety sensitive functions as required by 49 CFR Part 40. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

5. An Employee whose drug test result is reported to the City as positive or whose breath test result is 0.04 percent breath alcohol content or greater and who has previously had a positive drug test or breath alcohol test or who has had a previous mandatory referral for drug and alcohol counseling as required of these rules, will be terminated.

6. Failure to immediately begin an approved rehabilitation program and remain compliant with rehabilitation agreement, successfully complete the program and/or participate in required or recommended after-care may result in disciplinary action up to and including dismissal.

7. Post Rehabilitation. An Employee who tests positive for illegal drugs or alcohol use cannot return to work until he/she meets the following conditions:

   (a) Successfully completes a City approved rehabilitation program or completes the initial phase of such program and continues to participate in any program after care required by the rehabilitation facility doctor and/or counselor.

   (b) No further use of a controlled substance or prohibited use of alcohol as indicated by a negative drug/alcohol Return to Duty test result at the time of release or before resuming work duties.

   (c) Obtains a full written release and recommendation to return to duty from the treatment facility doctor and/or counselor.

   (d) Agrees to be subject to post-rehabilitation unannounced follow-up testing as determined by the SAP (DOT) or EAP (non-DOT) for a minimum of 1 year, with at least 6 unannounced tests in the first year, and continue in the program for up to 5 years as deemed necessary by the SAP or EAP.

3.5 Employees subject to U.S. Department of Transportation Regulations, 49 CFR Part 40, governing Drug and Alcohol testing

49 CFR Part 40 is available for review in the Human Resources Department.

A. In addition to the City's general drug and alcohol policy, City employees who perform safety sensitive duties requiring a Commercial Driver's License, CDL (except City Transit employees) shall be subject to the rules of the Federal Motor Carrier Safety Administration governing drug and alcohol testing (49 CFR 382). These rules are available for review in Human Resources. The prohibited substances for which employees are tested under the rules are: alcohol, marijuana, cocaine, opiates, amphetamines, heroin, ecstasy, and phencyclidine. A summary of those rules follows.

1. Beginning January 1, 1995, Employees required to have a CDL for their job are subject to the following prohibitions:

(a) No driver shall report to duty or remain on duty with a breath alcohol concentration of 0.02 percent or greater.

(b) No driver shall possess or use alcohol, including any medication with an alcohol component, while on duty.

(c) No driver shall be allowed to drive within four hours of using alcohol.

(d) A driver involved in an accident which requires an alcohol test may not use any alcohol until after the test is completed or eight hours has elapsed.

(e) No driver shall refuse to submit to any required drug or alcohol test required under these rules.

Behaviors that constitute a refusal:
(1) failure to appear for a test in specified time frame (excludes pre-employment), (2) once the test is underway, failure to remain at the testing site until the testing process is complete, (3) failure to provide a sufficient volume of urine or breath without a valid medical explanation, (4) failure to undergo a medical examination as directed by the MRO as part of the verification process, or as directed by the DER, (5) failure to cooperate with any part of the testing process, (6) the failure to permit the direct observation or monitoring of specimen donation when so required including failure to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process, (7) fail or decline to take an additional drug test required by the employer or collector, (8) a drug test result verified by the MRO as adulterated or substituted and (9) possess or wear a prosthetic or other device that could be used to interfere with collection(10) admit to collector or MRO that you adulterated or substituted the specimen. (11) failure to sign the certification on Step 2 of the Alcohol Test Form (12) tampering, adulterating or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

(f) No driver shall report for duty or remain on duty when using any drugs except those a physician has advised that the driver may use which will not adversely affect the driver's ability to operate a commercial motor vehicle.

2. Drivers are subject to the following drug and or alcohol tests:

(a) Pre-employment testing for controlled substances.

(b) Post-accident drug and alcohol tests will be conducted if the accident results in a death or when the driver was cited by the police if the accident involved: bodily injury to any person which requires medical treatment away from the scene or a vehicle incurs disabling damage and requires towing from the accident. Drivers will be subject to a drug test up to 32 hours after the accident. A supervisor shall prepare and maintain on file a record stating the reasons testing was not administered if this time limit is not met. Drivers are subject to an alcohol test within two hours of the accident but may be tested up to eight hours after the qualifying accident if such delay is required. A supervisor shall prepare and maintain on file a record stating the reasons the test was not administered with in the two hour limit. Records of post accidents tests shall be submitted to the Federal Motor Carrier Safety Administration upon request.

(c) Random testing. Drivers are required to participate in random drug and alcohol test pools. The selection of drivers for random testing is accomplished by a computer-based random number generator which matches an employee’s identification number; ensuring drivers shall have an equal chance of being tested each time selections are made. Random tests are unannounced and spread throughout the year. Once the Employee is notified of test, he/she is to cease safety sensitive functions and proceed to testing site as soon as possible. Alcohol testing may occur just before, during, or just after performing safety sensitive duties, drug testing may occur anytime while on duty. The percentage of Employees tested in the pool shall be determined annually by the FMCSA Administrator.

(d) Reasonable suspicion testing. Drivers are subject to drug and/or alcohol testing when a trained supervisor observes behavior supporting a reasonable suspicion of alcohol or drug use. The supervisor’s determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the

driver. Alcohol testing may occur just before, during or just after performing a safety sensitive function, drug testing may occur at any time while on duty.

(e) Return to duty testing. Before returning to safety sensitive duty after being excluded because of drug or alcohol use, or a refusal to test, a driver must take an alcohol test resulting in less than .02 percent alcohol concentration and/or a verified negative drug screen. Return to Duty testing will be a direct observed collection.

(f) Follow-up Testing. A driver referred to a SAP and subject to assistance or rehabilitation for drug or alcohol use shall be subject to such follow-up testing as directed by a SAP. Follow up testing shall include a minimum of 6 unannounced tests within the first 12 months and may extend up to 60 months from the date of the driver's return to duty. Follow up testing will be under a direct observed collection.

(g) Refusal to test shall be treated as a positive test. If a driver asserts an inability to provide a urine or breath specimen, and a physician concludes in writing that such an inability has no medical cause, the inability to provide such specimens shall be considered a refusal, thus a positive test. Drivers must be readily available for alcohol testing immediately before, during or just after performing safety sensitive duties, testing for prohibited substances may be at any time.

3. Supervisors have the following specific duties:

(a) Supervisors must produce drivers for post-accident drug testing within two hours, up to thirty two hours, and alcohol testing within two hours, up to eight hours, following the accident or document in writing why the driver was not tested. The driver may be given necessary medical treatment and if such treatment prevents normal drug or alcohol testing, the supervisor shall document and maintain a record stating the reasons testing was not completed and immediately inform Human Resources.

(b) Whenever drug or alcohol tests are required under these rules, supervisors must produce the driver for these tests, and when current impairment is reasonably suspected, the supervisor shall not allow the employee to drive.

(c) Observations supporting a supervisor's reasonable suspicion of drug or alcohol use must be made just before, during or just after the employee performs safety sensitive work. These observations must be reduced to writing within 24 hours of the observation.

4. Besides the penalties set out by the City for violations of these rules, Federal rule violations have the following consequences:

(a) No driver may drive if they have used a listed drug, no driver may drive within four hours of using alcohol or at any time when an alcohol test indicates an alcohol concentration of 0.02 percent or greater.

(b) A driver violating these rules may not return to safety sensitive function until evaluated and released by a SAP, and subsequently tested for alcohol and drugs with negative results.

(c) A driver tested with an alcohol concentration greater than 0.02 percent and less than 0.04 percent may not drive or perform other safety sensitive functions for not less than 24 hours after the administration of the test, and must test .02 percent or below before being allowed to return to safety sensitive functions.

(d) Federal Civil penalties for breach of the Federal rules range between $1,000 to $10,000 for each offense. Federal criminal penalties for violations of the Federal rules range between $1 and $25,000 for each offense or up to 1 year imprisonment for each offense.

B. City Transit Employees. In addition to the City's General Drug and Alcohol Policy, City Employees employed to operate a revenue service vehicle at any time, in revenue service or not, controlling the dispatch or movement of a revenue service vehicle or maintaining a revenue service vehicle, are subject to the rules of the Federal Transit Administration governing drug and alcohol testing (49 CFR 655*).* Covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with Part 655. These rules are available for review in Human Resources. Employees performing these safety sensitive functions are subject to testing for the following prohibitive substances: alcohol, opiates, phencyclidine, marijuana, cocaine, and amphetamines. A summary of those rules follows:

1. Not later than January 1, 1996, a transit employee performing a safety sensitive function is subject to the following prohibitions:

(a) No Employee shall report to work or continue working after using a prohibited drug.

(b) No Employee shall report to work or continue to perform a safety sensitive function with an alcohol concentration of 0.02 percent or greater.

(c) No Employee shall use alcohol while at work in a safety sensitive function.

(d) No Employee shall use alcohol within four hours of reporting to work or anytime while not at work but on call for work.

(e) No Employee may use alcohol for eight hours following an accident or until they have taken a post-accident alcohol test.

(f) No Employee shall continue working in a safety sensitive transit function if they have tested positive for drugs or alcohol, or if they have refused to take a drug or alcohol test, until they have completed the Return to Duty process (per 49 CFR part 40) and test negative for drugs and less than .02 percent alcohol concentration.

2. For purposes of transit operations, the following terms are defined as set out:

(a) Accident: An occurrence associated with the operation of a vehicle, if as a result:

(1) An individual dies; or

(2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or

(3) With respect to an occurrence in which the transit vehicle involved is a bus, electric bus, van or automobile, one or more vehicles involved incurs disabling damage and is transported away from the scene by tow truck or other vehicle; or

(4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the transit vehicle is removed from operation.

(b) Safety sensitive function:

(1) Operating a revenue service vehicle, including when not in revenue service;
(2) Operating a non-revenue service vehicle when such operation requires a Commercial Driver's License;
(3) Controlling dispatch or movement of a revenue service vehicle;
(4) Maintaining a revenue service vehicle or equipment used in revenue service.
(5) Carrying a firearm for security purposes.

3. Transit safety sensitive employees are subject to the following drug and alcohol tests:

(a) Pre-employment testing. A person may not be hired or transferred into a safety sensitive function until the person has a verified negative result on a pre-employment drug test. Covered employees or applicants who have not performed a safety sensitive duty for 90 consecutive calendar days regardless of the reason, and that have not been in the City of Columbia random selection pool during that time, must complete a pre-employment test with a verified negative result prior to performing safety sensitive duties. If the employee or applicant has previously failed or refused a DOT pre-employment drug test, the employee/applicant must provide the City of Columbia proof of successfully completing a return to duty process including referral, evaluation, and treatment plan.

(b) Reasonable suspicion tests. Employees performing safety sensitive functions are subject to drug and alcohol testing when one or more supervisors trained under these rules has reasonable suspicion, based upon contemporaneous, articulable observations regarding the appearance, behavior, speech or body odors of the employee, that the employee has used alcohol or a prohibited drug. Alcohol testing may occur just before, during or just after performing a safety sensitive function, drug testing may occur any time while on duty.

(c) Post-accident testing.

(1) In the case of a fatal accident. As soon as practicable following a fatal accident, the employee operating a mass transit vehicle at the time of the accident shall be given alcohol and drug tests. Any other covered Employee whose performance could have contributed to the accident shall be given drug and alcohol tests as determined using the best information available at the time of the decision.

(2) In the case of a non-fatal accident. As soon as practicable following the accident, the Employee operating a mass transit vehicle and any other covered Employee whose performance could have contributed to the accident, shall be given drug and alcohol tests unless the supervisor determines using the best available information at the time of determination that the Employee's performance can be completely discounted as a cause of the accident.

(3) Safety sensitive Employees must remain readily available for post-accident testing. An employee who fails to remain readily available or accessible for testing, including notifying the supervisor of his/her location if he or she leaves the scene of a qualifying accident before submitting to such test, may be considered a refusal to test. Alcohol testing must occur within 2 hours, up to 8 hours, drug testing must occur within 32 hours, if testing is not administered within the required times, the supervisor shall document and maintain a record stating reasons the testing was not administered. Records shall be submitted to FTA upon request of the Administrator. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from 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.

(d) Random testing. Employees performing safety sensitive functions are subject to random drug and alcohol testing. The random selection method is a computer based random number generator which is matched with employee's identification numbers. Each transit Employee has an equal chance of being tested each time selections are made. Random test dates will be unannounced and reasonably spread throughout the year and hours worked. Alcohol testing may occur just before, during or just after performing a safety sensitive function, prohibited drug use testing may be anytime while on duty. When notified of random testing, Employees must cease safety sensitive functions as soon as possible and immediately report for testing within thirty minutes of notification. Transit's random pool is tested at an annual rate determined by the Federal Transit Administrator.

(e) Return to Duty testing. Any Employee performing safety sensitive functions who has failed a drug test or refused to test, refused an alcohol test or who has alcohol tested with a breath alcohol content of 0.04% or greater shall be required to undergo a Return to Duty drug or alcohol test before returning to safety sensitive functions. The results of these tests must be negative for drugs and/or a blood alcohol content of less than 0.02%. Return to duty drug test will be a direct observed collection.

(f) Follow-up testing. Transit employees performing safety sensitive functions that have satisfactorily completed the SAP's recommendations and have a negative result on a Return to Duty test shall be subject to such follow-up testing as directed by the SAP. There will be a minimum of six unannounced follow-up tests within the first 12 months following a negative return to duty test and the follow up testing period may last up to 60 months. Follow up drug tests will be a direct observed collection.

(g) Employees to be tested under the authority of Federal Transit Rules shall be informed the tests are mandated by those rules. Employees must report to the test site immediately after notified to test. Failure to so report shall be reported to the City's transit authority.

4. Besides the penalties set out by the City for violations of these rules, Federal rule violations have the following consequences:

(a) Employees testing positive for drugs will be immediately relieved from safety sensitive functions, and will not be allowed to return to work in either safety or non-safety sensitive duties until evaluated and released by a SAP and must test negative on a Return to Duty test. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

(b) Employees testing 0.04% blood alcohol concentration or greater shall be relieved from safety sensitive functions, and will not be allowed to return to work in either safety or non-safety sensitive duties until referred to a SAP and shall not be returned to duty until evaluated and released by the SAP and testing less than 0.02% blood alcohol concentration on a Return To Duty Test. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions.

(c) Employees testing 0.02% to .039% blood alcohol concentration shall be relieved from safety sensitive duties and not returned to work for at least eight hours. Employees will not be allowed to work in either safety sensitive or non-safety sensitive positions during this 8 hour timeframe. Accumulated leave or leave without pay may be granted for time away from work, treatment, counseling or rehabilitation under applicable ordinance provisions. The employee must take a breath alcohol test with a result of less than .02 % alcohol concentration before returning to duty.

(d) Employees refusing to take a required drug or alcohol test, or refusing to provide a breath or urine sample shall be considered to have tested positive and will not be allowed to perform safety sensitive duties. If an Employee asserts that they are unable to provide a urine or breath specimen and a physician concludes in writing that such inability has no medical cause, the inability to provide a specimen shall be considered a refusal and, therefore, a positive test.

(e) Behaviors that constitute a test refusal:

(1) failure to appear for a test in specified time frame (excludes pre-employment), (2) once the test is underway, failure to remain at the testing site until the testing process is complete, (3) failure to provide a sufficient volume of urine or breath without a valid medical explanation, (4) failure to undergo a medical examination as directed by the MRO as part of the verification process, or as directed by the DER, (5) failure to cooperate with any part of the testing process, (6) the failure to permit the direct observation or monitoring of specimen donation when so required, (7) fail or decline to take an additional drug test required by the employer or collector, (8) a drug test result verified by the MRO as adulterated or substituted and (9) possess or wear a prosthetic or other device that could be used to interfere with collection(10) admit to collector or MRO that you adulterated or substituted the specimen. (11) failure to sign the certification on Step 2 of the Alcohol Test Form (12) tampering, adulterating or substituting specimen (13) leaving the scene of an accident without just cause prior to submitting to a test.

3.6 Columbia Terminal Railroad (CT) Employees.

In addition to the City's General Drug and Alcohol Policy, City employees who perform safety sensitive/regulated duties, as outlined by the Federal Railroad Administration, shall be subject to the federal regulations of 49 CFR 219. These rules are available for review in Human Resources.

This railroad, Columbia Terminal Railroad, and the City of Columbia recognizes there is a problem of substance abuse, both in drugs and alcohol, in today's society. As an employer who is subject to governmental regulations and seeks to promote the safety of its employees and the public, willingly complies with Federal regulations that are designed to restrict and prohibit the unauthorized use of drugs and alcohol on its property. The Columbia Terminal Railroad and the City of Columbia will comply with the United States Department of Transportation (DOT) and Federal Railroad Administration (FRA) regulations and all statutes and regulations administered by the FRA in implementing the required Part 219 Drug and Alcohol Program.

In accordance with the applicable Federal regulations, this railroad prohibits persons who perform work regulated by the Federal Hours of Service Laws (see 49 U.S.C. §§ 21101-

21108) and/or performing duties as Maintenance-of-Way (MOW) workers as described in the definition of "Roadway Worker" in 49 CFR § 214.7 are prohibited from using or the possession of illegal substances or alcohol while on duty. No employee may use alcohol for whichever is lesser of the following periods: within four hours of reporting for regulated service or after receiving notice to report for regulated service. Additionally, controlled substance use is prohibited at any time **on or off duty**, except as allowed in 49 CFR § 219.103.

§219.5 Definitions.

Administrator means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

Associate Administrator means the Associate Administrator for Railroad Safety, Federal Railroad Administration, or the Associate Administrator's delegate.

Category of regulated employee means a broad class of either covered service or maintenance-of-way employees (as defined in this section). For the purpose of determining random testing rates under §219.625, if an individual performs both covered service and maintenance-of-way activities, he or she belongs in the category of regulated employee that corresponds with the type of regulated service comprising more than 50 percent of his or her regulated service.

Contractor means a contractor or subcontractor performing functions for a railroad.

Covered employee means an employee (as defined in this section to include an employee, volunteer, or probationary employee performing activities for a railroad or a contractor to a railroad) who is performing covered service under the hours of service laws at 49 U.S.C. 21101, 21104, or 21105 or who is subject to performing such covered service, regardless of whether the person has performed or is currently performing covered service. (An employee is not a "covered employee" under this definition exclusively because he or she is an employee for purposes of 49 U.S.C. 21106.) For the purposes of pre-employment testing only, the term "covered employee" includes a person applying to perform covered service in the United States.

Covered service means service in the United States as a train employee, a dispatching service employee, or a signal employee, as those terms are defined at 49 U.S.C. 21101, but does not include any period the employee is relieved of all responsibilities and is free to come and go without restriction.

DOT, The Department, or DOT agency means all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), the United States Coast Guard (USCG) (for purposes of part 40 coverage only), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.

DOT-regulated employee means any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing DOT safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing conducted under the provisions of 49 CFR part 40, the term employee has the same meaning as the term "donor" as found on the Custody and Control Form and related guidance materials produced by the Department of Health and Human Services.

DOT safety-sensitive duties or DOT-safety sensitive functions means functions or duties designated by a DOT agency, the performance of which makes an individual subject to the drug testing and/or alcohol testing requirements of that DOT agency. For purposes of this part, regulated service has been designated by FRA as a DOT safety-sensitive duty or function.

Drug and Alcohol Counselor or DAC means a person who meets the credentialing and qualification requirements described in §242.7 of this chapter.

Employee means any individual (including a volunteer or a probationary employee) performing activities for a railroad or a contractor to a railroad.

Evacuation means the mandatory or voluntary relocation of at least one person who is not a railroad employee for the purpose of avoiding exposure to a hazardous material release. It does not include the closure of public transportation roadways for the purpose of containing a hazardous material release, unless the closure is accompanied by an evacuation order.

Flagman or Flagger means any person designated by the railroad to direct or restrict the movement of trains past a point on a track to provide on-track safety for maintenance-of-way employees, while engaged solely in performing that function.

Fouling a track means the placement of an individual or an item of equipment in such proximity to a track that the individual or equipment could be struck by a moving train or on-track equipment, or in any case is within four feet of the field side of the near running rail.

FRA representative means the Associate Administrator for Railroad Safety of FRA and staff, the Associate Administrator's delegate (including a qualified State inspector acting under part 212 of this chapter), the Chief Counsel of FRA, the Chief Counsel's delegate, or FRA's Drug and Alcohol Program oversight contractor.

Highway-rail grade crossing means:

(1) A location where a public highway, road, or street, or a private roadway, including associated sidewalks, crosses one or more railroad tracks at grade; or

(2) A location where a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others that crosses one or more railroad tracks at grade. The term "sidewalk" means that portion of a street between the curb line, or the lateral line of a roadway, and the adjacent property line or, on easements of private property, that portion of a street that is paved or improved and intended for use by pedestrians.

Highway-rail grade crossing accident/incident means any impact between railroad on-track equipment and a highway user at a highway-rail grade crossing. The term "highway user" includes pedestrians, as well as automobiles, buses, trucks, motorcycles, bicycles, farm vehicles, and all other modes of surface transportation motorized and un-motorized.

Impact accident, (1) Impact accident means a train accident, as defined in this section, consisting either of—

(i) A head-on or rear-end collision between on-track equipment;

(ii) A side collision, derailment collision, raking collision, switching collision, or "other impact accident," as defined by this section;

(iii) Impact with a deliberately-placed obstruction, such as a bumping post (but not a derail); or

(iv) Impact between on-track equipment and any railroad equipment fouling the track, such as an impact between a train and the boom of an off-rail vehicle.

(2) The definition of "impact accident" does not include an impact with naturally-occurring obstructions such as fallen trees, rock or snow slides, livestock, etc.

Joint operations means rail operations conducted by more than one railroad on the same track (except for minimal joint operations necessary for the purpose of interchange), regardless of whether such operations are the result of contractual arrangements between the railroads, order of a governmental agency or a court of law, or any other legally binding directive. For purposes of this part only, minimal joint operations are considered necessary for the purpose of interchange when:

(1) The maximum authorized speed for operations on the shared track does not exceed 20 mph;

(2) Operations are conducted under operating rules that require every locomotive and train to proceed at a speed that permits stopping within one half the range of vision of the locomotive engineer;

(3) The maximum distance for operations on the shared track does not exceed 3 miles; and

(4) Any operations extending into another railroad's yard are for the sole purpose of setting out or picking up cars on a designated interchange track.

Maintenance-of-way employee or MOW employee means a roadway worker as defined in §214.7 of this chapter.

Medical facility means a hospital, clinic, physician's office, or laboratory where post-accident toxicological testing specimens can be collected according to recognized professional standards, and where an individual's post-accident medical needs can be attended to.

Non-peer means a supervisor (other than a co-worker), labor organization representative, or family member of a regulated employee.

On-track or fouling equipment means any railroad equipment that is positioned on the rails or that is fouling the track, and includes, but is not limited to, the following: A train, locomotive, cut of cars, single car, motorcar, yard switching train, work train, inspection train, track motorcar, highway-rail vehicle, push car, crane, or other roadway maintenance machine, such as a ballast tamping machine, if the machine is positioned on or over the rails or is fouling the track.

Other impact accident means an accident or incident, not classified as a head-on, rear-end, side, derailment, raking, or switching collision, that involves contact between on-track or fouling equipment. This includes impacts in which single cars or cuts of cars are damaged during operations involving switching, train makeup, setting out, etc.

Person means an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad, such as a service agent performing functions under part 40 of this title; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor.

Plant railroad means a plant or installation that owns or leases a locomotive, uses that locomotive to switch cars throughout the plant or installation, and is moving goods solely for use in the facility's own industrial processes. The plant or installation could include track immediately adjacent to the plant or installation if the plant railroad leases the track from the general system railroad and the lease provides for (and actual practice entails) the exclusive use of that trackage by the plant railroad and the general system railroad for purposes of moving only cars shipped to or from the plant. A plant or installation that operates a locomotive to switch or move cars for other entities, even if solely within the confines of the plant or installation, rather than for its own purposes or industrial processes, will not be considered a plant railroad because the performance of such activity makes the operation part of the general railroad system of transportation.

Railroad property damage or damage to railroad property means damage to railroad property (specifically, on-track equipment, signals, track, track structure, or roadbed) and must be calculated according to the provisions for calculating costs and reportable damage in the FRA Guide for Preparing Accident/Incident Reports (see §225.21 of this chapter for instructions on how to obtain a copy). Generally, railroad property damage includes labor costs and all other costs to repair or replace in-kind damaged on-track equipment, signals, track, track structures (including bridges and tunnels), or roadbed. (Labor costs that must be accounted for include hourly wages, transportation costs, and hotel expenses.) It does not include the cost of clearing a wreck; however, additional damage to the above-listed items caused while clearing the wreck must be included in the damage estimate. It also includes the cost of rental and/or operation of machinery such as cranes and bulldozers, including the services of contractors, to replace or repair the track right-of-way and associated structures. Railroad property damage does not include damage to lading. Trailers/containers on flatcars are considered to be lading and damage to these is not to be included in on-track equipment damage. Damage to a flat car carrying a trailer/container, however, is included in railroad property damage. Railroads should refer directly to the FRA Guide for Preparing Accident/Incident Reports for additional guidance on what constitutes railroad property damage.

Raking collision means a collision between parts or lading of a consist on an adjacent track, or with a structure such as a bridge.

Regulated employee means a covered employee or maintenance-of-way employee who performs regulated service for a railroad subject to the requirements of this part.

Regulated service means covered service or maintenance-of-way activities, the performance of which makes an employee subject to the requirements of this part.

Responsible railroad supervisor means any responsible line supervisor (*e.g.*, a trainmaster or road foreman of engines) or superior official in authority over the regulated employees to be tested.

Side collision means a collision at a turnout where one consist strikes the side of another consist.

Tourist, scenic, historic, or excursion operations that are not part of the general railroad system of transportation means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.*, there is no freight, intercity passenger, or commuter passenger railroad operation on the track).

Train accident means a rail equipment accident described in §225.19(c) of this chapter involving damage in excess of the current reporting threshold (see §225.19(e) of this chapter), including an accident involving a switching movement. Rail equipment accidents include, but are not limited to, collisions, derailments, and other events involving the operations of on-track or fouling equipment (whether standing or moving).

Train incident means an event involving the operation of railroad on-track or fouling equipment that results in a casualty but in which railroad property damage does not exceed the reporting threshold.

Watchman/lookout means an employee who has been annually trained and qualified to provide warning of approaching trains or on-track equipment. Watchmen/lookouts must be properly equipped to provide visual and auditory warning by such means as a whistle, air horn, white disk, red flag, lantern, or fusee. A watchman/lookout's sole duty is to look out for approaching trains/on-track equipment and provide at least fifteen seconds advanced warning to employees before the arrival of trains/on-track equipment.

Programs have been established on this railroad which requires regulated employees to demonstrate their safety posture through complying with:

1. Urine screens to detect the presence of marijuana, cocaine, opioids, phencyclidine and amphetamines (See 49 CFR § 40.85 and 49 CFR § 40.87);
2. Breath alcohol tests to detect the unauthorized use of alcohol; and
3. Breath, urine, blood and tissue (fatality) testing after qualifying FRA post-accident events.

This program applies to all employees who are subject to the Federal hours of service laws (i.e. operating employees or covered service employees, including contractors and volunteers) **and/or** employees, contractors or volunteers performing duties as Maintenance-of-Way (MOW) workers as described in the definition of "Roadway Worker" in 49 CFR § 214.7. Regulated service employees are required to be in compliance with the applicable sections of Part 219 when they are on duty and are required to perform or are available to perform regulated service.

This railroad has a total of 4 regulated service employees (including volunteers and contractors) who perform "**Hours of Service"** duties.

This railroad has a total of 1 regulated service employees (including volunteers and contractors) who perform "**Roadway Worker"** duties.

The following classes or crafts of employees listed are subject to regulated service on this railroad, and to applicable sections of Part 219:

Railroads Operations Manager
Railroad Operator
Maintenance Specialist
Skilled Service Worker

Name of contractor: Travis Eichelberger – Capital Railroad Contracting
Address: 8500 E Trade Center Dr, Columbia, MO 65201
Phone: 816-718-6504
Fax: 573-474-3599

Mr. Eichelberger is employed as a signal supervisor for the Union Pacific and is in the UP's testing pool.

Nothing in this Policy shall be construed to:

(1) Require payment by the City of Columbia or Columbia Terminal Railroad of compensation for any period an employee is out of service under a voluntary referral or co-worker report policy;

(2) Require the City of Columbia or Columbia Terminal Railroad to adhere to a voluntary referral or co-worker report policy in a case where the referral or report is made for the purpose, or with the effect, of anticipating the imminent and probable detection of a rule violation by a supervising employee; or

(3) Limit the discretion City of Columbia or Columbia Terminal Railroad to dismiss or otherwise discipline an employee for specific rule violations or criminal offenses, except as specifically provided by Federal Law.

IDENTIFYING INFORMATION

Note: If any of the following personnel or entities change, the railroad is obligated to send FRA a change notice.

Railroad Name: Columbia Terminal Railroad and the City of Columbia
Address: 6501 N Browns Station Rd, PO Box 6015, Columbia MO 65205
Phone: 573-441-5561
E-Mail: dave.sprague@como.gov

Designated Employer Representative:
Name: Jenny Workman
Address: 600 E. Broadway, PO Box 6015, Columbia MO 65205
Phone: 573-874-6392
E-Mail: jenny.workman@como.gov

Medical Review Officer**:**
Name: Dr. Dean Breshears
Address: 7104 County Rd. #108, Fulton, MO 65251
Phone: 573-220-0987 or 573-642-4004

Testing Laboratory Name**:** UMC Toxicology & Drug Monitoring Laboratory
Address: 301 Business Loop 70 West, Ste 208, Columbia, MO 65203
Phone: 573-882-1273

The name of our consortium/third party administrator (C/TPA) is: Mid-Missouri Drug Testing Collections, Inc.
Address: PO Box 538, Ashland, MO 65010
Contact Person: Charles Johnson, Consortium Manager
Phone: 573-632-4495 or 573-234-1872

ALCOHOL AND DRUG USE PROHIBITED (49 CFR §219.101):

No employee may use or possess alcohol or any controlled substance while assigned by a railroad to perform regulated service. No employee may report for regulated service, or go or remain on duty in regulated service while under the influence of or impaired by alcohol or having 0.02 percent (Federal violation at 0.04 percent or more) or more alcohol concentration in their breath or blood.

No employee may report for regulated service, or go or remain on duty in regulated service while:

- Under the influence of or impaired by alcohol; or
- Having 0.02 percent (Federal violation at 0.04 percent or more) or more alcohol concentration in their breath or blood; or
- Under the influence of or impaired by a controlled substance.

No employee may use alcohol for whichever is the lesser of the following periods:

- Within four hours of reporting for regulated service; or
- After receiving notice to report for regulated service

- No employee tested under Part 219 whose test results indicates an alcohol concentration of 0.02 percent or greater but less than 0.04 percent may perform or continue to perform regulated service functions for a railroad, nor may a railroad permit the employee to perform or continue to perform regulated service, until the start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test.

Prohibition on Abuse of Controlled Substances (49 CFR § 219.102):

No employee who performs regulated service may use a controlled substance at any time, whether on duty or off duty, except as permitted by 219.103.

Use of Prescribed or Over-the-Counter Drugs (49 CFR § 219.103):

Part 219 subpart C does not prohibit the use of a controlled substance (on Schedules II through V of the controlled substance list) prescribed by a medical practitioner, or possession incident to such use, if:

- The treating medical practitioner or a physician designated by the railroad has made a good faith judgment, with notice of the employee's assigned duties and on the basis of the available medical history, that use of the substance by the employee at the prescribed or authorized dosage is consistent with the safe performance of the employee's duties;
- The substance is used at the dosage prescribed or authorized; and
- In the event the employee is being treated by more than one medical practitioner, at least one treating medical practitioner has been informed of all medications authorized or prescribed and has determined that use of the medications is consistent with the safe performance of the employee's duties (and the employee has observed any restrictions imposed with respect to use of the medications in combination).

TRAINING

Supervisor Training (49 CFR § 219.11 (g)):

Each supervisor responsible for regulated employees (except a working supervisor within the definition of co-worker under this part) must have training in the recognition of signs and symptoms of alcohol and drug influence, intoxication and misuse consistent with a program of instruction to be made available for inspection upon demand by FRA. Such a program shall, at a minimum, provide information concerning the acute behavioral and apparent physiological effects of alcohol and the major drug groups on the controlled substances list. The program should also cover supervisor responsibilities for "Rule G" observations under Part 217 and subsequent action such as reasonable suspicion testing.

The program must also provide training on the qualifying criteria for post-accident testing contained in subpart C of Part 219, and the role of the supervisor in post-accident decisions and collections described in subpart C and Appendix C to Part 219.

Employee Training:

This railroad will provide educational materials that clearly explain the requirements of Part 219, and the railroad's policies, prohibitions, and procedures with respect to meeting those requirements. A copy of this plan and any other educational materials will be distributed to each regulated service employee and to each person subsequently hired for or transferred to a regulated service position. At the end of the policy, there is an employee educational handout that was developed jointly by FRA, the Association of American Railroads, the American Short Line & Regional Railroad Association, and railroad labor organizations which helps to explain railroad alcohol/drug testing. This railroad will also provide written notice to representatives of employee organizations of the availability of this information per 49 CFR § 219.23.

CIRCUMSTANCES FOR TESTING REGULATED SERVICE EMPLOYEES

Pre-Employment Drug Testing – (49 CFR § 219.501) Applicants will be informed that all individuals this company will use for regulated service must be drug-free. Passing a Federal pre-employment drug test is a condition prior to performing regulated service duties. If an applicant refuses to submit to the drug test, or tests positive on the drug test, the applicant will not be considered qualified to perform regulated service and will not be offered a position in regulated service.

Federal Reasonable Suspicion Testing – (**49 CFR § 219.301**)
Regulated service personnel will be required to submit to a Federal drug and/or alcohol test whenever a properly trained supervisory employee of this railroad has reasonable suspicion that a regulated employee is currently under the influence of or impaired by a controlled substance or alcohol. Reasonable suspicion must be based on specific, contemporaneous personal observations the supervisor can articulate concerning the employee's appearance, behavior, speech, body odor, chronic effects or withdrawal effects. The observations must be made by at least one qualified supervisor [49 CFR § 219.11 (g)] who has received proper training in the signs of alcohol use and/or at least two qualified (one of whom has been trained and is on-site) supervisors who have received proper training in the signs and symptoms of drug use, consistent with standards which meet the FRA regulatory requirements of 49 CFR § 219.11 (g). Documentation of this decision must be maintained, as required by Part 219 Subpart J.

If operating on tracks of another railroad, this railroad will coordinate with the host railroad and decide how the supervisor on the site will immediately communicate and coordinate decisions to test and who will administer the necessary testing. In all reasonable suspicion cases, the supervisor will ensure that the regulated service person is transported immediately to a collection site for a timely collection of a urine and/or breath specimen. If the regulated service person is deemed not fit to return to work, the supervisor will arrange transportation for the person.

Supervisors must document their observations that led them to decide there was a "reasonable suspicion" to have the regulated service person subjected to Federal drug and/or alcohol testing.

FRA Post-Accident Toxicological Testing:

Part 219 subpart C requires this railroad to collect certain employee's urine, blood and/or breath specimens (tissue in the event of a fatality) after qualifying FRA Post-Accident events. This railroad will provide training on the qualifying criteria for post-accident testing contained in subpart C of this part and the role of the supervisor in post-accident collections described in subpart C and Appendix C to Part 219. Post-accident events are as follows:

1. **Major Train Accident** involving any rail equipment accident with reportable damages in excess of the current calendar year reporting threshold under 49 CFR Part 225 and one or more of the following:

   a. A fatality (any fatality).
   b. A release of hazardous materials from railroad "lading" that results in an evacuation or reportable injury caused by the hazmat release.
   c. Damage to railroad property of $1.5 Million or more.

2. **Impact Accident** involving reportable damage in excess of the current reporting threshold that results in:

   a. A reportable injury; or
   b. Damage to railroad property of $150,000 or more.

3. Fatal Train Incident involving any on-duty railroad employee where damages do not exceed the current reporting threshold.

4. **Passenger Train Accident** with a reportable injury to any person in a train accident involving damage in excess of the current reporting threshold that involves a passenger train.

5. **Human-Factor Highway-Rail Grade Crossing Accident/Incident** meeting one of the following criteria:

   i. If regulated employee interfered with the normal functioning of a grade crossing signal system, in testing or otherwise, without first providing for the safety of highway traffic that depends on the normal functioning of such a system, as prohibited by § 234.209, is subject to testing.

ii. If train crewmember who was, or who should have been, flagging highway traffic to stop due to an activation failure of a grade crossing system, as provided § 234.105 (c)(3), is subject to testing.

iii. If regulated employee who was performing, or should have been performing, the duties of an appropriately equipped flagger (as defined in § 234.5), but who failed to do so, due to an activation failure, partial activation, or false activation of the grade crossing signal system, as provided by § 234.105 (c)(1) & (2), 234.106, or 234.107 (c)(1)(i), is subject to testing.

iv. If there is a fatality of any regulated service employee regardless of fault. (fatally injured regulated employee must be tested)

v. If regulated employee violates an FRA regulation or railroad operating rules and whose actions may have played a role in the cause or severity of the accident/incident, is subject to testing.

Testing Decision: For an accident that meets the criteria for a Major Train Accident, all assigned crew members of all involved trains and on-track equipment must be tested. For an Impact Accident, Fatal Train Incident, Passenger Train Accident or Human-Factor Highway-Rail Grade Crossing Accident/Incident, the railroad must exclude an employee if the responding railroad representative can immediately determine, on the basis of specific information, that the employee had no role in the cause(s) or severity of the accident/incident (considering any such information immediately available at the time). For a fatal train incident, the fatally injured employee cannot be excluded from being tested.

For all five types of accidents, in any case where an operator, dispatcher, signal maintainer or other regulated service employee is directly and contemporaneously involved in the circumstances of the accident/incident, those employees must also be required to provide specimens.

Exceptions from Testing: No test may be required in the case of a collision between railroad rolling stock (including any on-track equipment) and a motor vehicle or other highway conveyance at a rail/highway grade crossing, unless it meets the criteria set forth above in Item 5 (i-v).

No test may be required in the case of an accident/incident the cause and severity of which are wholly attributable to a natural cause (e.g., flood, tornado, or other natural disaster) or to vandalism or trespasser(s), as determined on the basis of objective and documented facts by the railroad representative responding to the scene.

- **Collection of Urine and Blood Specimens:** Employee specimens will be collected at a medical facility, i.e., hospital, clinic, physician's office, or laboratory where toxicological specimens can be collected according to recognized professional standards. Specimen collections will be accomplished using the FRA Post-Accident Toxicological Testing Kit. Specimens will be collected, packaged, and shipped via express courier service by the railroad. The shipping address is as follows:

Quest Diagnostics
1777 Montreal Circle
Tucker, GA 30084
1-800-729-6432
Fax: 678-406-1037

Implied Consent: Employee(s) required to participate in body fluid testing under subpart C of Part 219 (post-accident toxicological testing) consent to taking of specimens, their release for toxicological analysis under pertinent provisions of this part, and release of the test results to the railroad's Medical Review Officer by promptly executing a consent form, if required by the medical facility. The employee is not required to execute any document or clause waiving rights that the employee would otherwise have against the employer, and any such waiver is void. The employee may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of others. Any consent provided consistent with this section may be construed to extend only to those actions specified in this section.

Any railroad employee who performs service for a railroad is deemed to have consented to removal of body fluid and/or tissue specimens necessary for toxicological analysis from the remains of such employee, if such employee dies within 12 hours of an accident or incident described in subpart C of Part 219 as a result of such event. This consent is specifically required of employees not in regulated service, as well as employees in regulated service.

Alcohol Testing Procedures

Breath alcohol testing will be performed by fully trained and certified Breath Alcohol Technicians (BAT) using the National Highway Traffic Safety Administration (NHTSA) approved testing devices. The results will be documented on an approved Federal Breath Alcohol Testing Form and will be signed by the employee and the BAT. At the time of the alcohol test, the employee will receive a copy of the test result, with an identical copy being sent to the railroad's DER.

a. Negative results. The DER will be provided a copy of the negative test results.

b. Positive results. The BAT will immediately and directly notify the railroad's DER if the test results are positive (0.02 percent or higher) who will take appropriate action to remove or restrict the employee from regulated service as required by Part 219.

Drug Test Results

Positive or Otherwise Non-Negative Results. If the laboratory reports the drug test result as POSITIVE or otherwise non-negative, the following procedures will be followed:

a. The MRO will immediately inform the regulated service person of the result and offer the person the opportunity for an interview to discuss the test result. If the MRO has difficulty reaching the employee, the procedures set forth in 49 CFR § 40.131 will be followed.

b. The MRO will complete and document the review as required by 49 CFR Part 40 Subpart G, determining if the external chain of custody was intact and if the person has a legitimate medical explanation for the presence of any controlled substance. In the case of an opiate positive, the MRO will also make the special determinations required by the regulation.

c. If the MRO verifies the test result as positive, the MRO will report the result to the railroad's DER. If the MRO determines that the result is non-negative and the non-negative result cannot be explained, the appropriate regulatory action will be pursued. The MRO will report the verified test result in accordance with 49 CFR § 40.163. The MRO will not provide the DER with the quantitative test results unless the employee, as stipulated in the regulation, disputes the test.

Negative results. If the MRO has determined that the drug test is NEGATIVE, the MRO will accomplish the required administrative review and report the negative results to the railroad's DER in accordance with 49 CFR § 40.163.

Negative-dilute results. Unless the MRO directs a railroad to conduct a recollection under direct observation (for a result with creatinine from 2 to 5 mg/dL), per 40.197, a negative-dilute is considered a negative test.

Refusal To Test

Failure to remain available for FRA post-accident testing following an accident or casualty (i.e., being absent without leave) is considered a refusal to participate in testing, without regard to any subsequent provision of specimens. An employee who has been transported to receive medical care is not released from duty for purposes of this section. Nothing in this section prohibits the subsequent testing of an employee who has failed to

remain available for testing as required (i.e., who is absent without leave); but subsequent testing does not excuse such refusal by the employee to provide the required specimens in a timely manner.

For all types of Federal testing, an employee who refuses to cooperate to provide specimens as required by Part 219/40 "has refused to test" and must be withdrawn from regulated service and must be deemed disqualified for regulated service for a period of nine (9) months. What constitutes a "refusal to test" is described in 49 CFR § 40.191. The requirement of disqualification for nine (9) months does not limit any discretion on the part of the railroad to impose additional sanctions for the same or related conduct.

Confidentiality

a. Medical information a regulated person provides to the MRO during the verification process is treated as confidential by the MRO and is not communicated to the railroad except as provided in Part 40.

b. Confidentiality of Federal drug or alcohol testing results will be maintained as required by the regulations. For example:

1. The laboratory observes confidentiality requirements as provided in the regulations. This railroad does not advise the laboratory of the identity of persons submitting specimens. The laboratory performing the testing must keep all records pertaining to the drug test for a period of two years.

2. All test results will remain exclusively in the secure files of the MRO. The MRO will observe strict confidentiality in accordance with the regulations and professional standards. The MRO will retain the reports of individual test results as required in Part 219 Subpart J.

3. The DER will maintain all test results reported by the MRO, both positive and negative, in secure storage. The results will be retained as required in Part 219 Subpart J. Other personnel will be informed of individual test results only in the case of positive tests and authorized only on a need-to-know basis.

Compliance with Testing Procedures

a. All regulated service personnel/applicants requested to undergo a Federal drug and/or alcohol test are required to promptly comply with this request. This railroad expects all prospective and current regulated service personnel to exercise good faith and cooperation in complying with any procedures required under this policy. Refusal to submit to a Federal drug or alcohol test required under FRA rules, engaging in any conduct which jeopardizes the integrity of the specimen or the reliability of the test result, or any other violations of the prohibited conduct in 49 CFR 219.101 or 219.102 could subject the person to disciplinary action (up to and including termination), independent

and regardless of any test result. This includes failure to show up on time for a drug/alcohol test, failing to remain at the testing site until the testing process is complete, etc. (see 49 CFR § 40.191).

b. All DOT Federal return-to-duty and follow-up urine specimens must be collected under direct observation (using the new direct observation procedures in 49 CFR § 40.67 (i)) when the regulatory service employee has had a previous positive Federal drug test result, or has previously refused to take a Federal test (including adulteration or substitution). Note that a SAP may also require return-to-duty and follow-up "drug" tests in addition to alcohol tests following an alcohol positive of 0.04 percent or greater.

c. Direct Observation Urine Collection Procedures: The collector (or observer) must be the same gender as the employee. If the collector is not the observer, the collector must instruct the observer about the procedures for checking the employee for prosthetic or other devices designed to carry "clean" urine and urine substitutes AND for watching the employee urinate into the collection container. The observer will request the employee to raise his or her shirt, blouse or dress/skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to mid-thigh and show the observer, by turning around, that the employee does not have such a device.

1) If the employee has a device, the observer immediately notifies the collector; the collector stops the collection; and the collector thoroughly documents the circumstances surrounding the event in the remarks section of the testing form. The collector notifies the DER. This is a refusal to test.

2) If the employee does not have a device, the employee is permitted to return his/her clothing to its proper position for the observed collection. The observer must watch the urine go from the employee's body into the collection container. The observer must watch as the employee takes the specimen to the collector. The collector then completes the collection process.

3) Failure of the employee to permit any part of the direct observation procedure is a refusal to test. As a minimum, a regulated service person will be removed from FRA regulated service for a minimum of nine months if there is a finding of "refusal to test."

Positive Test Results

a. Alcohol positive of 0.02 to 0.039: Regulated service personnel should receive written notification of test results which are other than negative. A Federal positive drug test or a Federal alcohol test result of 0.02 percent or greater or a refusal to test will result in immediate removal from regulated service under FRA regulations. A positive alcohol test of at least 0.02 percent but less than 0.04 percent will result in the removal of the person from regulated service for at least eight hours.

b. **Federal violation:** A regulated service person with an MRO verified positive drug test or a breath alcohol test result of 0.04 percent or greater (or a refusal) has violated Federal regulations and must be immediately removed from regulated service. Prior to or upon withdrawing the employee from regulated service, the railroad must provide notice to the employee of the reason for this action. If the employee denies that the test result is valid evidence of alcohol or drug use prohibited by 49 CFR Part 219.101 or 219.102, the employee may demand and must be provided an opportunity for a prompt post-suspension hearing. **See 49 CFR § 219.104 (c) for the hearing provisions.**

Even if the railroad does not wish to keep the employee in its employment, it must provide the above hearing (if requested) and at a minimum provide the employee with a list of qualified Substance Abuse Professionals. Prior to returning to regulated service the employee will be required to undergo an evaluation by a qualified Substance Abuse Professional (SAP) that is railroad approved, to determine the need for treatment and/or education. The employee will be required to participate and comply with the SAP-recommended treatment and any after-care or follow-up treatment that may be recommended or required.

After successful treatment, for a Federal positive drug test (or alcohol test result of 0.04 percent or greater), per the SAP's requirements, the person must provide a Federal return-to-duty urine specimen and/or breath specimen for testing (which is negative) prior to being allowed to return to regulates service. In addition, the person will be subject to additional unannounced Federal follow-up testing, as determined by the SAP, for a maximum period of 60 months, with a minimum of six tests being performed in the first twelve months **(engineers and conductors – SAP with require a minimum of 6 drug tests and 6 alcohol tests in the first 12 months).** Failure to comply with these provisions and remain alcohol and/or drug-free will result in subsequent removal from regulated service and could result in disciplinary action, up to and including termination.

Probationary and temporary employees whose breath test result is between 0.02 percent and 0.039 percent blood alcohol content will be terminated. A permanent employee who has a continuing pattern of breath test results between 0.02 percent and 0.039 percent blood alcohol content shall be referred to a SAP for evaluation and may be subject to disciplinary actions up to and including dismissal.

Probationary and temporary employees whose breath test result is 0.04 percent blood alcohol content or greater will be terminated. A permanent employee whose breath test result is 0.04 percent blood alcohol content or greater and who has previously had a positive drug test or breath alcohol will be terminated.

Probationary and temporary employees who test positive for drugs will be terminated. A permanent employee whose drug test result is reported as positive and who has previously had a positive drug test or breath alcohol test will be terminated.

REHABILITATION

This railroad has an employee assistance program (EAP) and SAP which provides covered service personnel with a comprehensive EAP/SAP that can help individuals with alcohol and/or drug abuse problems.

Employee Assistance Professional**:**
Contact person: Boone Hospital Employee Assistance Program
Address: 1701 E Broadway, Medical Plaza 3, Suite 303
Columbia, MO 65203
Phone: 573-815-6034

Substance Abuse Professional**:**
Contact person: Mark Rembecki
Address: 1303 Edgewood Dr.
Jefferson City, MO 65109
Phone: 573-645-0674

PREVIOUS EMPLOYER CHECK

This railroad must check on the drug and alcohol testing record of regulated employees it is intending to use to perform hours of service duties. This railroad will, after obtaining an employee's written consent, request information from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer into regulated service. A copy of the employee release form is attached as Appendix A to this policy. (49 CFR § 40.25)

An employee will also be asked whether he or she tested positive (or refused to test) on any Federal pre-employment drug or alcohol test administered by a DOT employer to which the employee applied for, but did not obtain regulated service work during the past two years.

With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including Federal follow-up tests) must be provided to this railroad.

APPENDIX A

Suggested Format: "Release of Information Form -- 49 CFR Part 40 Drug and Alcohol Testing"

<u>Section I</u>. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee Printed or Typed Name: _____

Employee SS or ID Number: _____

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

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

- Have you worked for a DOT-regulated employer in the last 2 years? _____
- Have you tested positive, or refused to test, on any Federal pre-employment drug/alcohol test? _____
- Employee Signature: _____ Date: _____

I-A.

New Employer Name: _____

Address: _____

_____

Phone #: _____ Fax #: _____

Designated Employer Representative: _____

I-B.

Previous Employer Name: _____

Address: _____

_____

Phone #: _____

Designated Employer Representative (if known): _____

<u>Section II</u>. To be completed by the previous employer and transmitted by mail or fax to the new employer:

II-A. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing ~

1. Did the employee have alcohol tests with a result of 0.04 or higher? **YES ____ NO ____**
2. Did the employee have verified positive drug tests? **YES ____ NO ____**
3. Did the employee refuse to be tested? **YES ____ NO ____**
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? **YES ____ NO ____**
5. Did a previous employer report a drug and alcohol rule violation to you? **YES ____ NO ____**
6. If you answered "yes" to any of the above items, did the employee complete the return-to-duty process? **N/A ____ YES ____ NO ____**

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

II-B.

Name of person providing information in *Section II-A*: _____

Title: _____

Phone #: _____

Date: _____

APPENDIX B – REGULATION ON PREVIOUS EMPLOYER CHECKS PER 40.25

§ 40.25 Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?

(a) Yes, as an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for you for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.

(b) You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer:

(1) Alcohol tests with a result of 0.04 or higher alcohol concentration;

(2) Verified positive drug tests;

(3) Refusals to be tested (including verified adulterated or substituted drug test results);

(4) Other violations of DOT agency drug and alcohol testing regulations; and

(5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-do-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

(c) The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations.

(d) If feasible, you must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and documented a good faith effort to obtain this information.

(e) If you obtain information that the employee has violated a DOT agency drug and alcohol regulation, you must not use the employee to perform safety-sensitive functions unless you also obtain information that the employee has subsequently complied with the return-to-duty requirements of Subpart O of this part and DOT agency drug and alcohol regulations.

(f) You must provide to each of the employers from whom you request information under paragraph (b) of this section written consent for the release of the information cited in paragraph (a) of this section.

(g) The release of information under this section must be in any written form (e.g., fax, e-mail, letter) that ensures confidentiality. As the previous employer, you must maintain a written record of the information released, including the date, the party to whom it was released, and a summary of the information provided.

(h) If you are an employer from whom information is requested under paragraph (b) of this section, you must, after reviewing the employee's specific, written consent, immediately release the requested information to the employer making the inquiry.

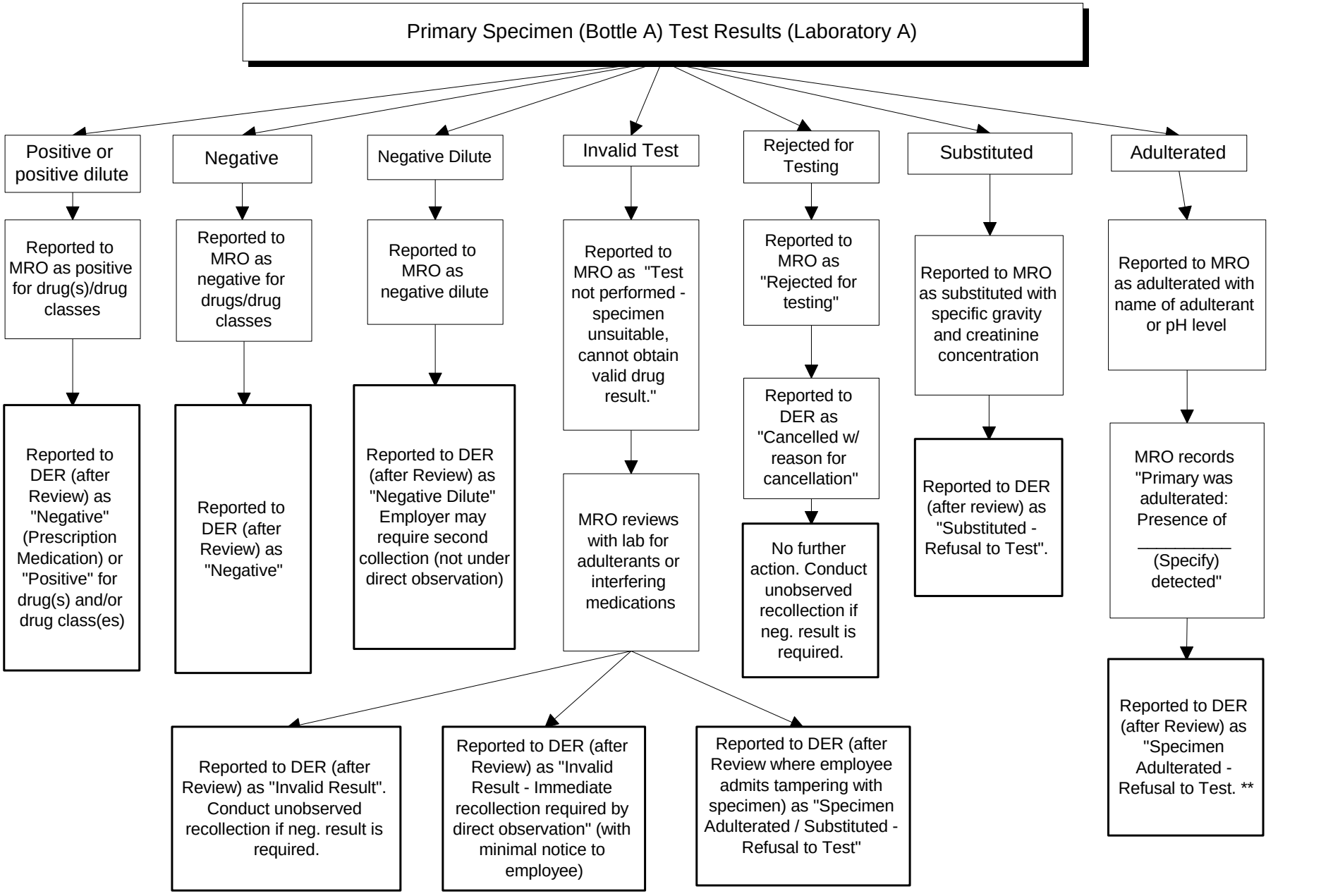
(i) As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.

(j) As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section).

APPENDIX C

As guidance, attached are two flow charts; one for the handling of primary specimens and one for the handling of split specimens.

FLOW CHART FOR HANDLING OF PRIMARY SPECIMENS

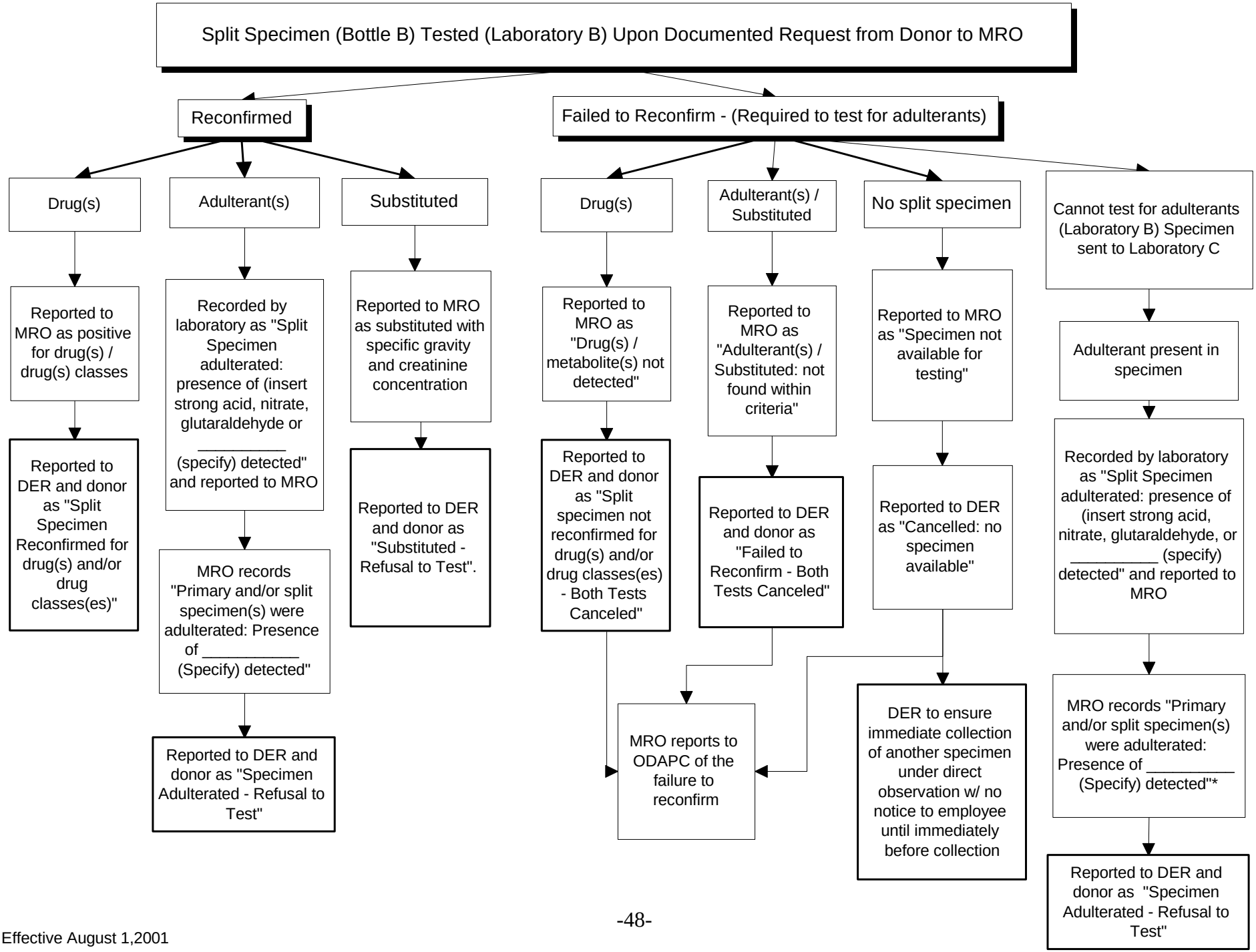


NOTE: Positive, adulterated and substituted specimens are retained by the laboratory for 1 yr.

** Adulterated specimen with no split specimen available is reported to DER as "Specimen Adulterated - Refusal to Test"

Effective August 1,2001

FLOW CHART FOR HANDLING OF SPLIT SPECIMENS



Appendix D

Columbia Terminal Railroad Documents

1. City of Columbia Reasonable Suspicion Documentation Form

Supervisor Observation
Reasonable Suspicion

Employee Name _____ Job title_____

Location _____ Date/ Time _____

The following are associated with possible alcohol use or drug abuse. Check ALL that apply:

BEHAVIOR	APPEARANCE	SPEECH	BODY ODOR
_ staggering	_ flushed skin	_ slurred	_ alcohol
_ sleepy	_ cold, clammy, sweats	_ exaggerated	_ burnt rope (possibly marijuana)
_ agitated	_ bloodshot eyes	_ loud boisterous	
_ hostile	_ sweating	_ incoherent	
_ disoriented	_ unusual energy	_ rapid/slow	
_ pinpoint pupils	_ tearing, watery eyes	_ forgetfulness	
_ poor coordination	_ dilated pupils	_ excessively talkative	
_ tremors, shakes	_ unfocused, blank stare	_ excessive laughter	
_ rapid breathing	_ sinus/nasal problems	_ inappropriate speech	
_ labored breathing	_ unkempt grooming	_ nonsensical, silly	
_ hallucinations			
_ euphoria			

_ frequent use of mints, mouthwash, breath sprays, eye drops
_ drunken behavior with or without odor of alcohol

Other observations: _____

How is employee's behavior different than previous observed on-the-job behavior?

_____

To the best of my knowledge and belief, this report represents the appearance, behavior and/or conduct of the above-named employee, observed by me and upon which I base my decision to require said employee to Reasonable Suspicion testing.

These observations were made by:

Supervisor: _____

Witness: _____

Date: _____

Employee transported to collection site by _____

3.7 Employee Drug and Alcohol Education

A. The Drug and Alcohol Policy is available by way of the City's Intranet site or a copy of the policy may be obtained from Human Resources.

B. Safety Sensitive Employee Drug and Alcohol training materials shall include the following content:

1. The identity of the persons designated to answer Employee questions about the City's rules and Federal testing programs.
2. Information explaining the effects of alcohol and drugs on health, work and personal life, the symptoms of alcohol or substance abuse.
3. Explanations of Employee conduct which is prohibited by these rules and the circumstances under which an Employee will be tested.
4. The drug and alcohol procedures.
5. An explanation of when testing is required by Federal rules and when it is required by City policy.
6. Explanation of what constitutes a refusal to test.
7. Explanation of the consequences of violations of these rules.
8. Explanation of the consequences of having a breath alcohol concentration greater than 0.02 percent but less than 0.04 percent
9. The name and contact information of an individual or organization(s) that can provide counseling and access to treatment programs.

C. Safety sensitive employees shall receive a minimum of 60 minutes of training in the effects of substance abuse. Training shall include explanation of DOT regulations governing drug and alcohol testing.

D. Safety sensitive-supervisors shall receive, in addition to the general Employee information, a minimum of 60 minutes of training in alcohol misuse and 60 minutes of training in drug use. The training shall cover physical, behavioral, speech and performance indicators of drug and alcohol misuse.

3.8 Alcohol Fact Sheet

A. Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

1. Signs and Symptoms of Use

Dulled mental processes
Lack of coordination
Odor of alcohol on breath
Possible constricted pupils
Sleepy or stuporous condition
Slowed reaction rate
Slurred speech
(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

2. Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

Decreased sexual functioning
Dependency (up to 10 percent of all people who drink alcohol become physically and /or mentally dependent on alcohol and can be termed Aalcoholic)
Fatal liver diseases
Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
Kidney disease
Pancreatitis
Birth defects (up to54 percent of all birth defects are alcohol related) Spontaneous abortion and neonatal mortality
Ulcers

3. Social Issues

Two-thirds of all homicides are committed by people who drink prior to the crime.
Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
Forty percent of family court cases are alcohol problem related.
Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

4. The Annual Toll

24,000 people will die on the highway due to the legally impaired driver.
12,000 more will die on the highway due to the alcohol-affected driver.
15,800 will die in non-highway accidents.
30,000 will die due to alcohol-caused liver disease.
10,000 will die due to alcohol-induced brain disease or suicide.
Up to another 125,000 will die due to alcohol-related conditions or accidents.

5. Workplace Issues

Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.
Alcohol abuse accounts for 500 million lost work days per year.
It takes 1 hr. for the average person (150 lbs.) to process one serving of an alcoholic beverage from the body.

3.9 Penalties

A. Penalties. If an Employee violates any provision of the City Drug and Alcohol Policy or applicable Federal Drug and Alcohol rules or fails to do anything required under the Policy or these Rules, the Employee may be subject to disciplinary action up to and including termination and/or may be required as a condition of continued employment to attend a drug and/or alcohol rehabilitation program approved by the City on the Employee's time and at the Employee's expense.