

**RIO GRANDE PACIFIC CORPORATION**

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# **DRUG AND ALCOHOL POLICY**

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**Effective June 1, 2018**

## 1.0 PREFACE

- This policy applies to the respective railroads and companies of Rio Grande Pacific Corporation, herein referred to as “RGPC”, and is based largely upon the requirements of Title 49 of the US Code of Federal Regulations (CFR).
- Regulations, requirements, rules, and information from the CFR are incorporated throughout this policy and are printed in a “***bold italic font***”.
- When elements of this policy differ from the CFR, the RGPC policy is shown in a “NOTE” or is shown in a “standard font”.
- In the case of a non-Federal Railroad Administration (FRA) test, any reference to a “regulated employee” also applies to a non-regulated employee.
- In the case of a non-FRA test, any reference to a Substance Abuse Professional (SAP) also applies to the Employee Assistance Program (EAP).
- The use of the term “manager” is a generic reference to a non-agreement employee who controls the work of others, i.e., supervisor or manager.
- Nothing in this policy supersedes any Department of Transportation (DOT), FRA or Federal Motor Carrier Safety Administration (FMCSA) regulation. If this policy conflicts with, or inadvertently omits any regulatory requirements, the requirement remains valid. The employer or employee remains responsible for compliance. The principle governing regulations are:
  - 49 CFR Part 219 – Control of Alcohol and Drug Use is available at <http://www.fra.dot.gov/Content3.asp?P=504>
  - 49 CFR Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs is available at <http://www.fra.dot.gov/Content3.asp?P=504>
  - 49 CFR Part 240 – Qualification and Certification of Locomotive Engineers is available at <http://www.access.gpo.gov/nara/cfr/>
  - 49 CFR Part 242 – Qualification and Certification Conductors is available at <http://www.access.gpo.gov/nara/cfr/>
  - 49 CFR Part 382 – Controlled Substances and Alcohol Use and Testing is available at <http://www.access.gpo.gov/nara/cfr/> under the FMCSA
- Questions about this policy can be directed to the Program Manager at (208) 861-7590.

## **2.0 TABLE OF CONTENTS**

1.0	PREFACE	1
2.0	TABLE OF CONTENTS	2
3.0	GENERAL	3
4.0	GENERAL CONDITIONS FOR CHEMICAL TESTS	4
5.0	PROHIBITIONS (49 CFR Parts 219.101, 219.102, 219.103 and 382 Subpart B)	5
6.0	RGPC POLICY ON PROHIBITIONS	8
7.0	FEDERAL POST-ACCIDENT TOXICOLOGICAL TESTING	10
8.0	FRA MANDATORY TESTING FOR REASONABLE SUSPICION	13
9.0	RGPC POLICY ON REASONABLE SUSPICION AND REASONABLE CAUSE	14
10.0	PRE-EMPLOYMENT TESTS	15
11.0	RANDOM ALCOHOL AND DRUG TESTING PROGRAMS	16
12.0	RGPC POLICY ON FITNESS EVALUATION	17
13.0	SAMPLE COLLECTION AND ANALYSIS	18
14.0	MRO REVIEW (49 CFR Part 40, Subpart G)	19
15.0	SPLIT DRUG TEST SAMPLE	20
16.0	REFUSALS TO PERMIT TESTING AND TAMPERING	21
17.0	REMOVAL FROM SERVICE AND DISCIPLINE	23
18.0	VOLUNTARY REFERRAL POLICY (49 CFR Part 219.403)	24
19.0	CO-WORKER REPORT (49 CFR Part 219.405)	25
20.0	REINSTATEMENT INSTRUCTIONS	27
21.0	FOLLOW-UP TESTING PROGRAM	29
22.0	DEFINITIONS	30
23.0	RESERVATION OF RIGHTS	31

## **3.0 GENERAL**

### 3.1 Purpose

- The purpose of the RGPC Drug and Alcohol Policy is to ensure compliance with applicable federal regulations and to establish policies, priorities, and objectives for the company's drug and alcohol control program. This policy prohibits the illegal use of drugs at any time and any use of alcohol in the workplace, on company property, or after accepting a call to duty, if employee is on call.

### 3.2 RGPC Commitment

- RGPC is committed to providing a safe and healthy working environment that facilitates the highest level of employee productivity and customer focus.
- To meet this commitment, RGPC will comply with the requirement of the Drug-Free Workplace Act of 1988, the Omnibus Transportation Employee Testing Act of 1991, and with the drug and alcohol testing requirements of the United States Department of Transportation (DOT), Federal Railroad Administration (FRA), and the Federal Motor Carrier Safety Administration (FMCSA).

### 3.3 A Health Problem

- RGPC has long recognized that substance abuse is a health problem which can be successfully addressed.
- Our EAP was developed to assist employees with drug or alcohol related problems. However, many substance abusers deny their problems and do not seek help voluntarily.
- For this reason, RGPC has committed to the principles of education, self-referral, and co-worker intervention.

### 3.4 Required Compliance

- This statement of policy and procedure supersedes all prior statements of policy and procedure governing drug and alcohol use by RGPC employees.
- Compliance with the requirements of this policy is a condition of employment at RGPC.

## 4.0 GENERAL CONDITIONS FOR CHEMICAL TESTS

### 4.1 Conditions (49 CFR Part 219.11 and 382.103)

- 4.1.1 ***Any employee who performs regulated service for a railroad is deemed to have consented to testing as required and consent is implied by performance of such service.***
- 4.1.2 ***In any case where an employee has sustained a personal injury and is subject to alcohol or drug testing under the regulations (or company policy), necessary medical treatment must be accorded priority over provision of the breath or body fluid specimen(s).***
- 4.1.3 ***Failure to remain available following an accident or casualty as required by railroad rules (i.e., being absent without leave) is considered a refusal to participate in testing, without regard to any subsequent provision of specimens.***
- 4.1.4 ***In general, the testing provisions of the FRA regulations in 49 CFR Part 219 apply only to employees who perform regulated service including train and engine service employees, train dispatchers, signal employees, and roadway workers. The regulations also require that samples be collected from the remains of any employee who is fatally injured in certain accidents or incidents.***
- 4.1.5 ***In general, the testing provisions of the FMCSA regulations in 49 CFR Part 382 apply only to employees who operate a commercial motor vehicle in commerce in any state and are subject to commercial driver's license requirements of Part 382.***

### 4.2 RGPC Policy

- 4.2.1 All employees are subject to reasonable cause and reasonable suspicion testing. Testing may be performed under FRA authority, FMCSA authority, or company authority, as applicable.

## **5.0 PROHIBITIONS (49 CFR Part 219.101, 219.102, 219.103 and 382 Subpart B)**

### **5.1 Alcohol and drug use prohibited**

- 5.1.1 **Prohibitions. Except as provided in 49 CFR Part 219.103 (Prescribed and Over-the-Counter Drugs), no employee may use or possess alcohol or any controlled substance while assigned by a railroad to perform regulated service.**
- 5.1.2 **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,**
  - **Having .02 or more alcohol concentration in the breath or blood (.04 is a federal violation),**
  - **Under the influence of or impaired by any controlled substance.**
- 5.1.3 **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.**
- 5.1.4 **Prohibition on abuse of controlled substances.**
- **No employee who performs regulated service may use a controlled substance at any time, whether on duty or off duty, except as permitted by 49 CFR Part 219.103, Prescribed and Over-the-Counter Drugs.**
- 5.1.5 **No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 49 CFR Part 382.107, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle as per 49 CFR Part 382.213.**

### **5.2 RGPC Policy**

- 5.2.1 RGPC policy prohibits any illegal use or possession of a controlled substance, and any possession, use of, or impairment by alcohol when any employee is subject to duty, reporting for duty, on duty, or on RGPC property. Any exception or modification to this policy must be cleared by the Program Manager.
- 5.2.2 "Illegal use" includes those substances which are used without a proper valid prescription by a licensed practitioner whose scope of practice includes appropriate prescriptions of medications. Illegal "possession" includes those drugs specified under the Federal Controlled Substances Act which have not been properly dispensed by a licensed physician or other practitioner who can dispense medications.
- 5.2.3 Drugs which are prohibited under this policy include "controlled substances" on Schedule I through V of the Federal Controlled Substances Act, as revised. Controlled substances are listed in 21 CFR Part 1308. (<http://www.deadiversio.usdoj.gov/21cfr/cfr/2108cfrt.htm>)
- 5.2.4 The controlled substances list includes illegal drugs (Schedule I) and those that are distributed only by medical practitioner's prescription or other authorization (Schedules II

through IV, and some drugs on Schedule V), and certain preparations for which distribution is through documented over-the-counter sales (Schedule V only).

5.3 Prescribed and Over-the-Counter Drugs (49 CFR Part 219.103 and 49 CFR Part 382.213)

5.3.1 ***49 CFR Part 219.103 does not prohibit the use of a controlled substance (on Schedules II through V of the Controlled Substance list) prescribed or authorized 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 level 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 medication(s) 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 medication(s) in combination).***

5.3.2 ***49 CFR 382.213 - An employer may require a driver to inform the employer of any therapeutic drug use.***

5.4 RGPC Policy

5.4.1 All RGPC employees are responsible to have a written copy of their treating medical practitioner's evaluation/determination (as above) available upon request of the Medical Review Officer (MRO) or the RGPC Medical Team.

An employee may be required to inform the RGPC Medical Team of specific or general types of therapeutic (prescription or over-the-counter) drugs if such drugs may pose significant safety risks for work. To be valid, under this policy, the prescription must have been issued within one year prior to the employee's use of the drug.

RGPC may place restrictions on the use of specific or general types of therapeutic (prescription or over-the-counter) drugs by an employee, or group of employees, if the RGPC Medical Team concludes that use of such drugs poses significant safety risks for work. Work restrictions may include requirements for monitoring, including periodic drug screens.

If RGPC managers become concerned that an employee's use of therapeutic drugs may pose safety risks for work, then this can be evaluated in a Fitness for Duty review by the RGPC Medical Team. In such cases, determinations will supersede any statements from the employee's treating physician's statement regarding the employee's ability to use therapeutic drugs at work.

5.4.2 Any use of another person's prescribed medication is prohibited.

5.4.3 Employees must be knowledgeable of potential side effects of any prescribed or over the counter medication(s) they are taking.

- 5.4.4 Any use of so-called “medical marijuana” is prohibited.
- 5.4.5 Any use of or possession of synthetic/designer drugs is prohibited. This includes products that are labeled “not intended for human consumption,” common names include (but are not limited to) “K2” and “Bath Salts”.
- 5.4.6 RGPC may at any time add other potentially impairing substances to the list of prohibited substances. Employees will be notified of such changes by usual communications methods.
- 5.4.7 To be valid under this policy, a prescription drug must have been issued within one year prior to the employee’s use of the drug.
- 5.4.8 Compliance with the RGPC Drug and Alcohol Policy is mandatory for all employees. Specifically, all employees are responsible for communicating their job description and responsibilities to prescribing medical practitioners to ensure no prescribed medication interferes with the employee’s ability to safely perform the essential functions of his or her job.
- 5.5 **Responsive Action (49 CFR Part 219.104) and Consequences for Drivers Engaging in Substance Use-Related Conduct (49 CFR Part 382.501)**
- 5.5.1 **Removal from regulated service**
- ***If the railroad determines that an employee has violated 49 CFR Parts 219.101 or 219.102, or the alcohol or controlled substances misuse rule of another DOT agency, the railroad must immediately remove the employee from regulated service.***
  - ***If an employee refuses to provide breath or a body fluid specimen or specimens when required to by the railroad under a mandatory provision of this part, the railroad must immediately remove the employee from regulated service. Notice: Prior to or upon withdrawing the employee from regulated service under this section, the railroad must provide notice to the employee of the reason for this action.***
  - ***Hearing procedures: If the employee denies in writing that the test result is valid evidence of alcohol or drug use prohibited by 49 CFR Part 219 (including refusals), the employee may demand and must be provided an opportunity for a prompt post-suspension hearing before a presiding officer other than the charging official.***
- 5.5.2 ***No employer shall permit any driver to perform safety-sensitive functions; including driving a commercial motor vehicle, if the employer has determined that the driver has violated this section. (382.501(b))***
- 5.6 **Railroad’s duty to prevent violations (49 CFR Part 219.105)**
- 5.6.1 ***A railroad may not, with actual knowledge, permit an employee to go or remain on duty in regulated service in violation of the prohibitions of 49 CFR Part 219.101 (alcohol), 49 CFR Part 219.102 (drugs), or 49 CFR Part 219.103 (prescribed and over-the-counter drugs).***

## **6.0 RGPC POLICY ON PROHIBITIONS**

### **6.1 Off-Duty Conduct**

- 6.1.1 The conduct of any employee leading to a conviction of any misdemeanor or felony involving the unlawful use, possession, manufacture, distribution, dispensation or transportation of any illegal drug or controlled substance, is prohibited.
- 6.1.2 Employees convicted of such misdemeanor or felony must notify their supervisor of that fact within 48 hours after receiving a notice of the conviction. Failure to do so will negate that employee's right, under this policy, for a one-time return to service, if applicable.
- 6.1.3 Certified employees, whatever class of service, must report by contacting their manager any arrest, citation, or convictions within 48 hours for:
- Operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance.
  - Refusal to undergo such testing when a law enforcement official seeks to find out whether a person is operating under the influence of alcohol or a controlled substance.

(In compliance with 49 CFR Part 240.111(h) and Part 242.115)

- 6.1.4 In addition, employees holding a CDL license must report to their supervisor any conviction for operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance by the end of the next business day following notification of license revocation or suspension, or loss of driving privileges in any state or jurisdiction. Employees that fail to make this contact by the next business day following notification of revocation or suspension, or loss of driving privileges will be subject to discipline. Employees making timely contact may be afforded an opportunity to work with EAP and maintain their employment relationship with RGPC.
- 6.1.5 A Commercial Motor Vehicle (CMV) driver arrested, ticketed, or convicted for driving a motor vehicle under the influence of alcohol and/or drugs, must notify a supervisor as soon as possible, but no later than the end of the first business day immediately following the day that the employee is arrested, ticketed, or convicted. Failure to do so may disqualify the employee from driving a company vehicle.
- 6.1.6 State-sponsored diversion programs, deferred case decisions, guilty pleas, and completed state actions to cancel, revoke, suspend, or deny a driver's license are considered convictions as applied to this policy.
- 6.1.7 Employees charged with such an offense, who believe that they may be convicted of the charge, are encouraged to contact an EAP representative for counseling prior to the actual conviction. This may reduce lost time after the conviction.

### **6.2 Driving Company Vehicle**

- 6.2.1 Any employee driving a motor vehicle owned, leased, or rented by the company, while under the influence of alcohol and/or drugs, both on or off RGPC property and both on or off duty, is prohibited.

- 6.2.2 Any employee arrested, ticketed, or convicted for driving a motor vehicle owned, leased, or rented by the company under the influence of alcohol and/or drugs, must notify a supervisor as soon as possible, but no later than the end of the first business day immediately following the day the employee is arrested, ticketed, or convicted.
- 6.3 Actual Knowledge of Off-Duty or Pre-Duty Use
- If RGPC has actual knowledge of off-duty use of drugs, or pre-duty use of alcohol (within four hours of work), or if a manager directly observes consumption, use, or possession of drugs or alcohol, by any on-duty employee, this policy has been violated and the employee is subject to disciplinary action without the necessity of testing.
- 6.4 Voluntary Layoff
- RGPC permits off-duty employees subject to duty, or called for duty, to layoff with an admission that they are under the influence of alcohol or drugs (illegal or legal). The layoff must occur prior to reporting for duty and the privilege is allowed only one time per calendar year.
- 6.5 ***FMCSA Regulations (49 CFR Part 382, 49 CFR Part 383)***
- 6.5.1 ***No driver will perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours will permit a driver to perform or continue to perform safety-sensitive functions.***
- 6.5.2 ***No driver required to take a post-accident alcohol test under 49 CFR Part 382.303 will use alcohol for eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.***
- 6.6 RGPC Policy
- 6.6.1 All DOT certified drivers, including CMV operators, must notify a supervisor when their license has been revoked, suspended or withdrawn for any reason, including drug or alcohol-related revocations, within forty-eight hours.

## 7.0 FEDERAL POST-ACCIDENT TOXICOLOGICAL TESTING

7.1 **Events for which FRA Mandatory Post Accident Testing is required (49 CFR Part 219.201): Except as provided in 49 CFR Part 219.201(b), post-accident toxicological tests must be conducted after any event that involves one or more of these circumstances:**

7.1.1 **Major train accident.** Any train accident (i.e., a rail equipment accident involving damage in excess of the current reporting threshold) that involves one or more of the following:

- A fatality; or
- A release of hazardous material lading from railroad equipment accompanied by an evacuation; or a reportable injury resulting from the hazardous material release (e.g., from fire, explosion, inhalation, or skin contact with the material); or
- Damage to railroad property of \$1,500,000 (or current threshold as established by the FRA) or more, not including lading.

7.1.2 **Impact accident.** An impact accident (i.e., a rail equipment accident defined as an “impact accident” in 49 CFR Part 219.5) that involves damage in excess of the current report threshold, resulting in:

- A reportable injury; or
- Damage to railroad property of \$150,000 (or current threshold as established by the FRA) or more, not including lading.

7.1.3 **Fatal train incident.** Any train incident that involves a fatality to any on-duty railroad employee.

7.1.4 **Passenger train accident.** Reportable injury to any person in a train accident involving a passenger train (i.e., a rail equipment accident involving damage in excess of the current reporting threshold).

7.1.5 **Human factor highway-rail grade crossing accident/incident.**

7.1.5.1 **A regulated employee who interfered with the normal functioning of a grade crossing signal system, in testing or otherwise, without first taking measures to provide for safety of highway traffic that depends on the normal functioning of such system, as prohibited by 234.209.**

7.1.5.2 **A train crewmember who was or who should have been, flagging highway traffic to stop due to an activation failure of the grade crossing system, as provided by 234.105(c) (3).**

7.1.5.3 **A regulated employee who was performing, or should have been performing, the duties of an appropriately equipped flagger (as defined in 234.5) due to activation failure, partial activation, or false activation of the grade crossing signal system, as provided by 234.105(c) (2) 234.106, or 234.107(c)(1)(i).**

7.1.5.4 ***A fatality to any regulated employee performing duties for the railroad, regardless of fault.***

7.1.5.5 ***A regulated employee who violated an FRA regulation or railroad operating rule and whose actions may have played a role in the cause or severity of the accident/incident.***

7.1.6 ***Exceptions (49 CFR Part 219.201(b))***

- ***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).***

7.1.7 ***Employees Tested (49 CFR Part 219.203)***

- ***Following each accident or incident described in 49 CFR Part 219.201, the railroad (or railroads) must take all practicable steps to assure that all regulated employees of the railroad directly involved in the accident or incident provide blood and urine specimens for toxicological testing by FRA. Such employees must cooperate in the provision of specimens as described in the regulations and Appendix C of 49 CFR Part 219.***
- ***In any case where an operator, dispatcher, signal maintainer, bridge tender, or other regulated employee is directly involved in the circumstances of an accident. This includes any regulated employee who may not have been present or on-duty at the time or location of the event, but whose actions may have played a role in its cause or severity, including, but not limited to an operator, dispatcher, or signal maintainer.(49 CFR Part 219.203(b)).***
- ***In a “major accident” all crew members of all trains must be tested.***

7.1.8 ***An employee must be excluded from testing under the following circumstances: In any case of an accident/incident for which testing is mandated only under 49 CFR Part 219.201(a)(2) (an “impact accident”), 49 CFR Part 219.201 (a)(3)(“fatal train incident”), or 49 CFR Part 219.201(a)(4)(a “passenger train accident with injury”) if the 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.***

- ***Testing of the remains of non-regulated employees who are fatally injured in a train accident or incident is required.***

7.1.9 ***Unlawful refusals; consequences (49 CFR Part 219.213)***

- ***An employee who refuses to cooperate in providing breath, blood or urine specimens following an FRA mandatory post-accident or incident testing situation must be withheld from regulated service and must be deemed disqualified for regulated service for a period of nine (9) months in accordance with the conditions specified in 49 CFR Part 219.107.***

7.2 ***FMCSA MANDATORY POST-ACCIDENT DRUG AND ALCOHOL TESTING (49 CFR Part 382.303)***

7.2.1 ***The FMCSA mandates post-accident drug and alcohol testing if:***

- ***There is a fatality, no matter who is at fault.***

- ***There is a non-fatal accident where the CMV operator receives a citation for a moving violation and there is:***
  - ***An injury requiring medical treatment away from the scene of the accident, or***
  - ***A vehicle is towed from the accident scene.***

### 7.3 RGPC Policy

- 7.3.1 The DOT requirement for post-accident testing does not limit the discretion of RGPC to impose additional sanctions or discipline of this same or related conduct.
- 7.3.2 Following any accident or incident, a manager at the site must make the determination whether an FRA mandatory post-accident test is required before releasing any employees involved in the accident or incident.
- 7.3.3 Following any accident or incident, employees involved in the accident must not leave the accident or incident site until a supervising manager notifies the employees of the determination regarding drug and alcohol testing. Leaving the site without authorization will result in a refusal to test.
- 7.3.4 Railroad managers who were on and supervising the train involved in the accident or incident, but not a member of the crew, or who were directly and contemporaneously involved in the accident or incident, may be tested only under company authority.

## **8.0 FRA MANDATORY TESTING FOR REASONABLE SUSPICION**

- 8.1 ***Mandatory reasonable suspicion testing (49 CFR Parts 219.300, 219.301, 219.302).***
- 8.1.1 ***A railroad must require a regulated employee to submit to an alcohol test when the railroad has reasonable suspicion to believe that the employee has violated any prohibition concerning use of alcohol. The railroad's determination that reasonable suspicion exists to require the regulated employee to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.***
- 8.1.2 ***A railroad must require a regulated employee to submit to a drug test when the railroad has reasonable suspicion to believe that the employee has violated any prohibition concerning use of controlled substances. The railroad's determination that reasonable suspicion exists to require the regulated employee to undergo a drug test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.***
- 8.1.3 ***With respect to an alcohol test, the required observations must be made by a supervisor trained in accordance with 49 CFR Part 219.11(g). The supervisor who makes the determination that reasonable suspicion exists may not conduct testing on that employee.***
- 8.1.4 ***With respect to a drug test, the required observations must be made by two supervisors, at least one of whom is trained in accordance with 49 CFR Part 219.11(g) and is on site.***
- 8.1.5 ***If a test required by this section is not administered within eight hours of the determination under this section, the railroad must cease attempts to administer an alcohol test and must state in the record the reasons for not administering the test.***
- 8.1.6 ***In the case of a drug test, the eight-hour requirement is satisfied if the employee has been delivered to the collection site (where the collector is present) and the request has been made to commence collection of the drug testing specimens within that period (49 CFR Part 219.302(e)).***

## 9.0 RGPC POLICY ON REASONABLE SUSPICION & REASONABLE CAUSE

### 9.1 RGPC Reasonable Suspicion Drug and Alcohol Testing

- 9.1.1 RGPC will require reasonable suspicion drug and alcohol testing of all employees not covered under FRA or FMCSA regulations (including management and agreement employees) or off-duty hours of service employees who are on railroad property when there is a reasonable suspicion, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee made by a manager.
- 9.1.2 Actual knowledge of pre-duty use of alcohol (within four hours of work) and/or illegal drugs, or the on-duty use and/or possession of illegal drugs and/or alcohol does not require a drug or alcohol test.
- 9.1.3 It is the manager's decision to test within the policy guidelines.
- 9.1.4 Determination of influence by alcohol may be made by one trained manager.
- 9.1.5 Determination of drug use must be by two managers, at least one of whom is trained in accordance with 49 CFR Part 219.11(g) and is on site.
- 9.1.6 Note that for reasonable suspicion drug testing, the second manager may be consulted by telephone.

### 9.2 RGPC Reasonable Cause Drug and Alcohol Testing

- 9.2.1 RGPC has chosen to exercise the discretion granted by FRA regulations to conduct reasonable cause testing in certain circumstances, as detailed below, under company authority only and where such testing is not mandated under FRA or FMCSA regulations.  
RGPC reasonable cause drug and/or alcohol testing policy applies to all employees, agreement and non-agreement, regardless of job or craft when:
  - Based on a manager's good faith belief, that an employee may have violated a rule that has a direct impact on safety.

**IMPORTANT:** Personal injuries, standing alone, cannot trigger reasonable cause drug and/or alcohol testing.

## **10.0 PRE-EMPLOYMENT TESTS**

### **10.1 *Pre-employment drug testing (49 CFR Part 219.501)***

- 10.1.1 *Prior to the first time an applicant performs regulated service for RGPC, the applicant must undergo testing for drugs. No railroad may allow an individual to perform regulated service, unless the individual has been administered a test for drugs with a result that did not indicate the misuse of controlled substances.***
- 10.1.2 *This requirement applies to final applicants for employment and to employees seeking to transfer for the first time on this railroad from non-regulated service to duties involving regulated service.***

### **10.2 *Refusals***

- 10.2.1 *An applicant who refuses to submit to pre-employment testing under this section may not be employed in regulated service. (49 CFR Part 219.505)***
- 10.2.2 *An applicant can decline to be tested and withdraw their application and no record will be kept, unless the refusal occurs after the collection process has begun. (49 CFR Part 219.501(b))***
  - 10.2.2.1 *Collection process has begun once the applicant has provided identification to the collector.***

### **10.3 *Background Check (49 CFR Part 40.25)***

- 10.3.1 *RGPC will request information from other employers about an employee's drug and alcohol testing records (49 CFR Part 40.25).***
- 10.3.2 *This requirement applies only to employees seeking to begin performing safety-sensitive duties for RGPC for the first time (i.e., a new hire, an employee transfer into a safety-sensitive position). If the employee refuses to provide this written consent, the employee will not be permitted to perform safety-sensitive functions (49 CFR Part 40.25).***

### **10.4 *RGPC Policy***

- 10.4.1 *Before first time or returning applicants perform any service for RGPC, they must undergo drug testing, including hair, urinalysis, or both, and have a negative result.***
- 10.4.2 *Negative dilute results will require a second collection. If the second collection results in another negative dilute this will be accepted as a negative result.***
- 10.4.3 *Applicants who refuse to take a pre-employment drug test after it has started will not be employed.***
- 10.4.4 *Applicants with positive test results will have their application rejected and they will be ineligible to be retested for a period of six months.***
- 10.4.5 *Applicants re-applying following a positive pre-employment drug test must present a certificate of rehabilitation from a substance abuse professional.***
- 10.4.6 *Applicants that adulterate or provide a substitute sample on a pre-employment test will be banned from reapplying.***

## **11.0 RANDOM ALCOHOL AND DRUG TESTING PROGRAMS**

**11.1 *Each railroad must submit for FRA approval a random testing program meeting the requirements of 49 CFR Part 219, Subpart G. (219.601(a), drugs; 219.607, alcohol)***

**11.1.1 *Notice of an employee's selection for random testing may not be provided until the duty tour in which testing is to be conducted, and then only so far in advance as is reasonably necessary to ensure the employee's presence at the time and place set for testing. (49 CFR Part 219.601(b)(4)).***

**11.1.2 *An employee will be subject to random testing only while on-duty.***

**11.2 *Participation in testing (49 CFR Parts 219.603 and 219.609)***

**11.2.1 *An employee selected through the random testing program to cooperate in breath and urine testing must provide the required breath and urine specimens and complete the required paperwork and certifications. Compliance by the employee may be excused from random testing only in the case of a documented medical or family emergency.***

**11.2.2 *The FMCSA requires random drug and alcohol testing of all employees who are required by law to have a Commercial Drivers License (CDL) and who operate a CMV (Commercial Motor Vehicle, as defined by the FMCSA). (40 CFR Part 382.305).***

**11.3 *RGPC Policy***

**11.3.1 *RGPC will randomly test regulated employees in compliance with FRA and FMCSA requirements.***

**11.3.2 *All non-regulated employees are subject to random testing under company authority.***

## **12.0 RGPC POLICY ON FITNESS EVALUATION**

### 12.1 General Notice about Medical, Drug and Alcohol Tests

12.1.1 This policy serves as general notice that RGPC employees are subject to periodic, return-to-work, job transfer, and follow-up physical examinations under management prerogative, existing collective bargaining agreements, or DOT requirements.

12.1.2 This policy serves as general notice that employees may be tested for drugs and/or alcohol during the physical examination process.

### 12.2 Job Transfer Examinations

Employees who apply for transfer to a safety-sensitive job which requires a physical examination prior to transfer will have a DOT pre-employment drug test as a part of that examination. (The FRA requires drug testing of all applicants for transfer into regulated service positions, as well as pre-employment testing for regulated service positions. The FMCSA requires drug testing of all applicants who are initially qualifying for a DOT license or reactivating an expired license.)

### 12.3 Return-to-Work Examinations

Employees who are required by the Company's medical rules to have an evaluation prior to returning to work may also be required to have a drug test as a part of that evaluation.

### 12.4 "Fitness for Duty" or "For Cause" Examinations

Employees who are required by a supervisor to undergo a "For Cause" exam to ascertain "Fitness for Duty" may also be required to have a drug test as a part of the examination process.

### 12.5 Other Medical Examinations

If in any other required physical or mental fitness examination, or evaluation situation, the examining physician has reason to believe that an employee may be using illegal drugs or abusing prescription drugs which may have an adverse effect on alertness, coordination, reaction, responses or safety, the physician or their designee should notify the Company and the Company may order a drug test. Any employee providing a urine sample which tests positive for illegal or unauthorized drugs during a required physical examination may, upon the recommendation of the RGPC Medical Team, be medically disqualified from service without pay. If the test results establish that the employee has failed to follow previous instructions to remain drug free, the employee may be subject to discipline.

## 13.0 SAMPLE COLLECTION AND ANALYSIS

### 13.1 Drug Tests

- 13.1.1 All drug tests required by DOT or RGPC will be performed in accordance with the specimen collection and laboratory analysis procedures in 49 CFR Part 40.
- 13.1.2 RGPC reserves the right to add additional testing to its company drug panel, without notice.
- 13.1.3 49 CFR 40.193 requires 45 mL of urine for a drug test. Failure to provide this sample, i.e.: shy bladder, will result in the following actions:
- a) After three hours without giving a sample, the employee may be pulled from service and will be given a form to sign that explains the process they must then follow. Leaving the site during this three-hour period or refusing to make any attempts when requested can result in the test being canceled and ruled a refusal.
  - b) The employee will be directed to contact the local DER or railroad manager within twenty (24) hours. If contact is not made, the Company will attempt to contact the employee. Once contact has been made, the Company will work with the employee to set up an appointment to be evaluated by a medical practitioner to determine if a legitimate reason can be found for the shy bladder. This appointment must be scheduled within five (5) days from the date of the test.
  - c) The MRO will make the final decision after receiving documentation from the medical evaluator. If the MRO decides the employee had a legitimate reason for the shy bladder the employee will be immediately reinstated.
  - d) If the MRO determines the test to be a refusal, no legitimate medical explanation found, the employee is subject to discipline in accordance with this policy and disqualified from any FRA regulated service for a period of nine (9) months.
- 13.1.4 Federal Testing Authority: Employees that have gone through this process before and have a shy bladder as determined by the MRO must go through this process each time the situation occurs per 49 CFR 40.193.
- 13.1.5 RGPC Authority: Employees that have gone through this process and have a condition that is ruled a shy bladder as determined by the MRO and is not expected to improve with time or treatment, may be required to participate in further testing under company authority.

### 13.2 Alcohol Tests

- 13.2.1 All alcohol tests required by DOT or RGPC will be performed in accordance with the collection procedures prescribed in 49 CFR Part 40.
- 13.2.2 All confirmations for alcohol tests will be performed using devices on the National Highway Traffic Safety Administration's conforming Products List for screening and evidentiary breath testing devices.

## 14.0 MRO REVIEW (49 CFR PART 40, SUBPART G)

- 14.1 ***Every drug test result reported by the laboratory will be reviewed by a qualified Medical Review Officer (MRO) who will be selected by RGPC. In each case, prior to making a final decision to verify a positive test result reported by the laboratory, the MRO will make a reasonable effort to contact the employee tested and give them an opportunity to discuss the result.***
- 14.2 ***If the MRO, or a staff person under the MRO's supervision, is unable to reach the employee directly after reasonable efforts, the MRO will contact the Designated Employer Representative (DER) or designee, who will direct the employee to contact the MRO as soon as possible. If it becomes necessary to reach the employee in this way, the manager will employ procedures that ensure, to the maximum extent practicable, that the instruction to contact the MRO is held in confidence.***
- 14.3 If neither the MRO nor RGPC, after making all reasonable efforts, has not been able to contact the employee within 10 days of the date the MRO receives a positive test result from the laboratory, the test will be declared a "no-contact positive".
- 14.4 The MRO will verify a test as positive without communicating directly with an employee when the employee expressly declines the opportunity to discuss the test; or when RGPC has instructed the employee to contact the MRO and more than seventy-two hours have passed after that instruction was conveyed, or the MRO or RGPC is unable to contact the employee within 10 days.
- 14.5 If after successfully contacting the employee, the MRO determines there is a legitimate medical explanation for the positive test result, the MRO will report the test result as negative. Results from an MRO negative will not be mailed.
- 14.6 If the MRO verifies the test result as positive, the MRO will notify the employee they are positive and to contact their manager. The MRO will report the result to the RGPC DER to pull employee from service and to take administrative action.

## **15.0 SPLIT DRUG TEST SAMPLE**

### **15.1 Storage of Split Specimen (49 CFR Part 40.99):**

- ***Specimens that yield non-negative drug test results, on confirmation, will be retained by the laboratory in secure, long-term, frozen storage for 365 days. Within this 365-day period the individual, RGPC, or DOT may request that the laboratory retain the specimens for an additional period.***

### **15.2 Split Sample Request (49 CFR Part 40.171)**

- 15.2.1 *When employees are notified by the MRO that they have a verified positive drug test or refusal to test because of adulteration or substitution, they have 72 hours from the time of notification to request a test of the split specimen. A request may be verbal or in writing to the MRO.***
- 15.2.2 *If an employee does not request a test of the split specimen within 72 hours, the employee may present to the MRO information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented the employee from making a timely request.***
- 15.2.3 *In mandatory post-accident testing situations, the FRA sets a 60-day time requirement for requesting a test of the split specimen. Requests must be in writing and addressed to the FRA, which will forward the request to the laboratory. (49 CFR Part 219.211(I)).***

## **16.0 REFUSALS TO PERMIT TESTING AND TAMPERING**

### **16.1 Refusal to take a DOT test (49 CFR Part 40.191)**

#### **16.1.1 An employee is considered to have refused to take a drug test if the employee:**

- *Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by a railroad supervisor.*
- *Fails to remain at the testing site until the testing process is complete.*
- *Fails to provide a urine specimen for any drug test required by the regulations or DOT agency regulations (within three hours) (49 CFR Part 40.193(b)(4)).*
- *Fails to permit the observation or monitoring of a test, when required (49 CFR Part 40.67(l) and 49 CFR Part 40.69(g)).*
- *Fails to follow the observer's instructions. (49 CFR Part 40.191 (a) 9, 10, 11).*
- *Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (49 CFR Part 40.193).*
- *Fails or declines to take a second test the employer or the collector has directed the employee to take.*
- *Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under 49 CFR Part 40.193(d).*
- *Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, or behaves in a confrontational way that disrupts the collection process).*
- *Fails to remain available following an accident or casualty as required by company rules (i.e., being absent without leave) is considered a refusal to participate in testing, without regard to any subsequent provision of specimens (49 CFR Part 219.11(b)(3)).*
- *If the MRO reports that an employee has a verified adulterated or substituted test result, the employee has refused to take a drug test.*

### **16.2 Consequences of unlawful refusal (49 CFR Part 219.107)**

**16.2.1 An employee who refuses to provide breath or a body fluid specimen or specimens, when required by the railroad under a mandatory provision of federal regulations, must be deemed disqualified from regulated service for a period of nine (9) months (49 CFR Part 219.107(a)).**

**16.2.2 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 (49 CFR Part 219.107(d)).**

### **16.3 RGPC Policy: Refusal to Test and Tampering**

- 16.3.1 An employee, who refuses to provide breath or body fluid specimen(s) when required or fails to remain available after an accident or incident, is considered insubordinate under RGPC rules.
- 16.3.2 An employee who is unable to provide breath or body fluid specimen(s) will be directed for a medical evaluation to a licensed physician who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen during a collection.
- 16.3.3 Failure to provide a urine specimen (within three hours) for any drug test required by this policy, without a medical reason as determined by the MRO, is considered a refusal.
- 16.3.4 An employee is required to immediately participate in a drug or alcohol test as directed.
- 16.3.5 When an employee refuses to participate in a drug or alcohol test, the employee may be removed from service and be subject to discipline in accordance with this policy.
- 16.3.6 Employees must place electronic devices, as defined in Rule 2.21, in the off position when directed to do so by the manager or collector during the drug or alcohol testing process. Failure to do so will be considered a refusal.
- 16.3.7 Tampering, or attempting to tamper, with a sample to prevent a valid test (e.g., through substitution, dilution or adulteration) constitutes a refusal.
- 16.3.8 An employee possessing adulterants, or a specimen substitution, or a device used for substitution on company property will be considered to have refused testing.
- 16.3.9 Employees dismissed for refusal will not be allowed to take part in the Employee Assistance Program for the purpose of reinstatement.

## **17.0 REMOVAL FROM SERVICE AND DISCIPLINE**

- 17.1 Withheld from service: If RGPC determines there is reason to believe that an employee has violated any section of this drug and alcohol policy, including a verified positive drug test result reported by the MRO; a positive alcohol test of .02 or higher; observation of pre-duty or on-duty use or possession of drugs and/or alcohol; or other verifiable reasons (e.g., criminal conviction related to drugs), the employee will immediately be withheld from service, pending disciplinary action.
- 17.2 Discipline: If it is determined that an employee violated this drug and alcohol policy the employee will be subject to discipline, up to and including dismissal.

## 18.0 VOLUNTARY REFERRAL POLICY (49 CFR PART 219.403)

18.1 ***An employee who is affected by an alcohol or drug use problem may maintain an employment relationship with the railroad if, before the employee is charged with conduct deemed by the railroad sufficient to warrant dismissal, the employee seeks assistance through EAP for the employee's alcohol or drug use problem or is referred for such assistance by another employee or by a representative of the employee's collective bargaining unit.***

18.1.1 ***The railroad will, to the extent necessary for treatment and rehabilitation, grant an employee a leave of absence for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. The leave of absence will be not less than 45 days, if necessary, for the purpose of meeting initial treatment needs.***

18.2 RGPC Policy: Voluntary Referral Policy

18.2.1 RGPC will afford all employees a one-time Voluntary referral opportunity which provides that an employee maintains an employment relationship with RGPC subject to the following conditions:

- The employee must cooperate in an evaluation. If a disorder is identified, the employee must successfully complete the minimum education, counseling or treatment prescribed by EAP before qualifying to return to service.
- The employee will be subject to the follow-up drug or alcohol testing program in this situation.
- If the employee is not cooperating with EAP/SAP or not following rehabilitation and/or follow-up testing instructions, that employee will be subject to discipline, up to and including dismissal.
- The leave of absence time necessary for initial treatment needs is not more than 60 days.
- RGPC is not responsible for costs of evaluation and/or treatment.

18.2.2 RGPC treats the referral and subsequent handling, including counseling and treatment, as confidential, subject to the exceptions set forth in EAP policy and procedures.

18.2.3 The certification status of an Engineer or Conductor will not be affected under the voluntary referral policy, provided the employee cooperates with the rehabilitation program.

18.2.4 The policy of confidentiality is waived (to the extent that RGPC receives official notice from EAP of the substance abuse disorder) and RGPC will suspend or revoke the certification, as appropriate, if the employee at any time refuses to cooperate in a recommended course of counseling or treatment and/or the employee is later determined, after investigation, to have been involved in an alcohol or drug-related disciplinary offense growing out of subsequent conduct.

18.2.5 An employee will be returned to service on the recommendation of EAP, for non-federal tests, except as may be provided under 49 CFR Part 219.403(c)(2), which may require a return-to-work medical exam. Approval to return to service will not be withheld unreasonably.

## 19.0 CO-WORKER REPORT (49 CFR PART 219.405)

### 19.1 General

19.1.1 ***An employee may maintain an employment relationship with the railroad following an alleged first offense, if the alleged violation comes to the attention of the railroad as a result of a report by a co-worker that the employee was apparently unsafe to work with or was, or appeared to be, in violation of FRA regulations or the railroad's drug and alcohol policy. If the railroad manager, after being notified by a co-worker, determines that the employee is in violation, the railroad must immediately remove the employee from service in accordance with its existing policies, agreements, and procedures.***

19.1.2 ***The employee must contact EAP within three (3) days. EAP will schedule necessary interviews for the employee with a SAP. The evaluation is to be completed within ten (10) calendar days of the date on which the employee contacts the SAP, unless it becomes necessary to refer the employee for further evaluation. In each case, all necessary evaluations must be completed within 20 days of the date on which the employee contacts the professional, if possible.***

19.1.3 RGPC Policy: RGPC will afford all employees a one-time co-worker referral opportunity which provides that an employee maintains an employment relationship with RGPC following an alleged first offense of Rule 1.5 or this Policy subject to the following conditions:

- No other rule violation is involved.
- The alleged violation must come to the attention of RGPC as a result of a report by a co-worker that the employee was apparently unsafe to work with or was, or appeared to be, in violation of this Policy.
- If RGPC representative can independently confirm that the employee is in violation, that employee will immediately be removed from service.
- The employee must elect to waive investigation on the rule charge and must contact EAP within three days of the waiver election.
- The employee must cooperate in an evaluation. If a disorder is identified, the employee must successfully complete the minimum education, counseling or treatment prescribed by EAP before qualifying to return to service.
- Employees will be given a single return to duty test that must be passed with negative results.
- Negative dilute results are not considered a negative and therefore will require a second collection. If the second collection results in another negative dilute this will be accepted as a negative result. The employee will be subject to follow-up drug or alcohol testing in this situation for up to 60 months from the return to duty test date.
- If the employee is not cooperating with EAP/SAP or not following rehabilitation and/or follow-up testing instructions, that employee will be subject to discipline, up to and including dismissal.
- The leave of absence time necessary for initial treatment needs is not more than 60 days.
- RGPC is not responsible for costs of evaluation and/or treatment.

19.1.4 Co-worker is defined as a peer employee only. Managers are excluded from co-worker reporting and must follow all requirements of Federal Regulations and RGPC Drug and Alcohol policy to conduct a reasonable suspicion test, (Federal authority if on-duty in regulated service, RGPC authority if non-regulated service or off-duty regulated service) for drugs and/or alcohol if signs and symptoms are present.

19.2 ***When treatment is required***

19.2.1 ***If the SAP determines that the employee is affected by psychological or chemical dependence on alcohol or a drug or by another identifiable and treatable mental or physical disorder involving the abuse of alcohol or drugs as a primary manifestation, the following conditions and procedures apply:***

19.2.1.1 ***The railroad will, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. The policy must allow a leave of absence of not less than 60 days, if necessary, for the purpose of meeting initial treatment needs.***

19.2.1.2 ***The employee will agree to undertake and successfully complete a course of treatment deemed acceptable by a SAP.***

19.2.1.3 ***The railroad will promptly return the employee to service, upon recommendation of the SAP, when the employee has established control over the substance abuse problem. Return to service may also be conditioned on successful completion of a return-to-service medical examination. Approval to return to service may not be withheld unreasonably.***

19.2.1.4 ***Following return to service, the employee, as a further condition on withholding of discipline, may, as necessary, be required to participate in a reasonable program of follow-up treatment, as prescribed by the SAP, for a period not to exceed 60 months from the date the employee returned to duty.***

19.3 ***When treatment is not required:***

- ***If the SAP determines that the employee is not affected by an identifiable and treatable mental or physical disorder, the company will return the employee to service within five days after completion of the evaluation. During or following the out-of-service period, the railroad will require the employee to participate in a minimum program of education and/or training concerning the effects of alcohol and drugs on occupation or transportation safety.***

19.4 ***Follow-up tests for co-worker referral:***

- ***The company will conduct return-to-service and/or follow-up tests (as described in 49 CFR Part 219.104) of an employee who waives investigation and is determined to be ready to return to service under this section.***

## 20.0 REINSTATEMENT INSTRUCTIONS

### 20.1 General

- 20.1.1 Any employee being reinstated after a company approved Voluntary Referral or Co-Worker Report must have a negative test result for drugs and alcohol before being allowed to return to service.
- 20.1.2 RGPC requires follow-up drug and/or alcohol tests after reinstatement for the period and frequency determined by EAP/SAP. Employees will be eligible for return to service based upon advice that they have successfully completed the education, counseling and/or treatment determined to be necessary by EAP/SAP, including any drug and alcohol testing requirements of a program or personal program, and they have tested negative for drugs (and alcohol, if appropriate) on the return-to-duty test.
- 20.1.3 Reinstatement is to be on a leniency basis with vacation and seniority rights unimpaired, but without pay for time lost.

### 20.2 Provisions

- 20.2.1 To return to service and/or remain qualified once an employee has returned to service, the employee must agree to these reinstatement conditions:
- The employee must become drug and/or alcohol free by successfully completing any education, counseling or treatment determined by EAP/DAC/SAP.
  - The employee must continue in any further program of counseling, treatment and follow-up determined by EAP/DAC/SAP.
  - The employee must adhere to all the agreements in their designated personal program with EAP/DAC/SAP.
  - The employee must test negative on a return-to-duty test for drugs and alcohol.
  - Prior to reinstatement, the employee will be required to meet with the employee's manager to discuss the conditions and understanding of the reinstatement.
  - Following reinstatement, the employee must submit to follow-up drug, alcohol, or drug and alcohol testing as required by federal regulations and/or this Policy for the time and frequency required by the SAP/DAC/EAP for up to 60 months from the date of return to service, unless otherwise specified by a SAP/DAC. In addition, the employee will also submit to required education, counseling, or treatment.
  - Follow-up drug and/or alcohol testing will be scheduled on dates chosen by RGPC and when the employee is on duty. Follow-up tests must be unannounced. The employee will be given no advanced notice of the test.
  - Follow-up testing is in addition to any other testing required by regulation or this policy.
  - The employee must not violate any RGPC rule with reference to drugs or alcohol.
  - Failure to comply with these instructions may be grounds for immediate disciplinary action.

20.2.2 Certain labor organizations have a "Companion Agreement" that provides for the opportunity to return to service upon the recommendations of EAP/SAP, further provided there has been no proven violation of Rule 1.5 in the preceding ten (10) years. These agreements remain in effect and supersede this policy where conflict, if any, exists.

## **21.0 FOLLOW-UP TESTING PROGRAM**

### **21.1 General (49 CFR Parts 40.307, 40.309)**

**21.1.1 After returning to work following any drug or alcohol violation or disqualification from service, with particular reference to drugs or alcohol, employees will undergo follow-up testing designated by SAP/EAP.**

**21.1.2 For DOT tests, the number and frequency of unannounced follow-up tests are directed by the SAP and must consist of at least six (6) tests in the first 12 months following the employee's return to safety-sensitive duties. If poly-substance use has been indicated, the follow-up testing plan should include testing for drugs as well as alcohol (for the alcohol rule violator) and for alcohol as well as drugs (for the drug rule violator). Follow-up testing can last up to 60 months, or as determined by a SAP, but can be terminated by the SAP any time after one year (if all tests recommended up to that point are completed).**

### **21.2 Follow-up Testing**

**21.2.1 Employee follow-up test dates are selected by RGPC following EAP/SAP determination of the number and frequency of testing.**

**21.2.2 Locomotive engineers and conductors returning to work from any federal drug and/or alcohol violation will be tested at least six (6) times for alcohol and at least six times for drugs during year one.**

**21.2.3 Regulated employees returning to work from any federal drug and/or alcohol violation will be tested at least six (6) times for alcohol and at least six (6) times for drugs during year one as determined by the SAP on an individual basis during year one.**

**21.2.4 All DOT follow-up drug tests are to be conducted under direct observation as described in 49 CFR Part 40.67.**

## 22.0 DEFINITIONS

22.1 As used in this policy:

22.1.1 **Controlled substance is defined in 49 CFR Part 219.5. Controlled substances are:**

- **Marijuana**
- **Narcotics (such as heroin and codeine)**
- **Stimulants (such as cocaine and amphetamines)**
- **Depressants (such as barbiturates and minor tranquilizers), and**
- **Hallucinogens (such as PCP).**

22.1.2 **Controlled substances also include:**

- **Illicit drugs (Schedule I)**
- **Drugs that are required to be distributed only by a medical practitioner's prescription or other authorization (Schedules II through IV, and some drugs on Schedule V), and**

22.1.3 **Certain prescriptions for which distribution is through documented over-the-counter sales (Schedule V only).**

22.1.4 **Covered employee means a person who performs service subject to the Hours of Service Laws (49 USC 211). If an employee performs covered service at least once per quarter and is in the random testing program, the employee will be tested Upon selection, regardless if the employee is performing covered service that day. For the purposes of pre-employment testing only, the term "covered employee" includes a person applying to perform covered service.**

22.1.5 **Co-worker means another employee of RGPC, including a working supervisor directly associated with a yard or train crew, such as a conductor or yard foreman, but not including any other supervisor, special agent, or manager.** A coworker is also defined as a subordinate

22.1.6 DAC means Drug and Alcohol Councilor

22.1.7 **Drug means any substance (other than alcohol) that has known mind-altering effects on a human subject, specifically including any psychoactive substance and including, but not limited to controlled substances and substances that are not intended for human consumption.**

22.1.8 EAP means Employee Assistance Program and/or Employee Assistance Professional as appropriately applied

22.1.9 **SAP means Substance Abuse Professional**

22.1.10 **Regulated employee is a broader term that includes regulated service employees, hours of service employees, and roadway workers as defined in 214.7.**

## **23.0 RESERVATION OF RIGHTS**

- If any future governmental action results in the nullification or preemption of any part of this policy, the remainder will remain intact unless changed by RGPC. RGPC reserves the right to interpret or change this policy at any time.