



Terminal Railroad Association of St. Louis

**FEDERAL RAILROAD ADMINISTRATION**

**CONTROL OF ALCOHOL AND DRUG USE  
(49 CFR PART 219)**

**MODEL PART 219  
RAILROAD COMPLIANCE PLAN**

**Send plan submission via email to [FRA-DrugAlcoholProgram.email@dot.gov](mailto:FRA-DrugAlcoholProgram.email@dot.gov)**

**Date of FRA Plan Submission:**

*4/25/2022*

**Effective Date of Plan:**

*6/1/2022*

**Date of FRA Plan Approval:**

**(To be completed by FRA)**

*Click or tap to enter a date*

**This Plan Is (Select Below):**

*Plan Revision*

**Name of Railroad(s) and FRA Reporting Code(s):**

*Terminal Railroad Association of St. Louis (TRRA)*

## **MODEL PART 219 RAILROAD COMPLIANCE PLAN**

FRA's Model Part 219 Railroad Compliance Plan has been developed by FRA as a tool to assist railroads in complying with the requirements of Title 49, Code of Federal Regulations Part 219 with respect to submission and approval of random alcohol and drug testing and the required programs. This plan, although initially developed for the smaller railroads, may be used by all railroads regardless of class.

Only railroads that are required to comply with Part 219 are authorized to use Federal authority. Therefore, entities having less than 16 covered service employees (unless they operate on tracks of another railroad or otherwise engage in joint operations with another railroad except as necessary for purposes of interchange) are not authorized to utilize Federal authority to conduct Federal random or reasonable cause testing. In those instances, a railroad should use "Company Policy Testing" as their authority. All railroads subject to Part 219.3 would still be responsible for complying with Subpart C – Post-Accident testing requirements.

Simply signing and adopting this plan does not constitute compliance. The actions required by the regulation must be in accordance with regulatory requirements to achieve compliance. **In all cases where there is a difference between this plan and 49 CFR Part 219 or 49 CFR Part 40, the CFR takes precedence.**

Title 49, CFR Part 40 requires employers to have a Designated Employer Representative (DER), defined in 40.3 as "An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these regulated duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of Part 40. Service agents cannot act as DERs." In the past, this person may have been referred to as the Program Administrator.

**NOTE: In the body of the submittal email, please indicate any changes made to the compliance plan.**

## I. Policy Statement

Terminal Railroad Association of St. Louis recognizes the problem of substance abuse in today's society. This problem poses concerns to an employer who is subject to governmental regulations and seeks to promote the safety of the public. This railroad has a concern for the safety, health, and well-being of its employees as well as an obligation to comply with the United States Department of Transportation (DOT) and Federal Railroad Administration (FRA) regulations. This railroad will comply with all statutes and regulations administered by the FRA in implementing the required Part 219 Drug and Alcohol Program.

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.

In accordance with the applicable Federal regulations, this railroad prohibits persons who perform work regulated by the Federal Hours of Service (HOS) Laws (see 49 U.S.C. §§ 21101-21108); and/or employees performing duties as Maintenance-of-Way (MOW) workers as described in the definition of "Roadway Worker" in § 214.7; and/or employees performing Mechanical functions (MECH) duties covered by the definition of "Mechanical Employees" in § 219.5, from being under the influence and/or possession of illegal substances and/or under the influence of alcohol while on duty or within four hours of reporting for regulated service. Additionally, illegal substance use is prohibited **on or off duty**, except as allowed in 49 CFR § 219.103.

## II. Identifying Information.

### **Railroad:**

Name of Railroad: Terminal Railroad Association of St. Louis  
Address: 1017 Olive Street, 5<sup>th</sup> Floor  
St. Louis, MO 63101

Office Phone: 618-451-8430  
Cell Phone: 618-444-9644  
E-Mail: [bragland@terminalrailroad.com](mailto:bragland@terminalrailroad.com)  
Additional Notes:

**Designated Employer Representative:**

Name: Brad Ragland  
Address: 1017 Olive Street, 5<sup>th</sup> Floor  
St. Louis, MO 63101

Office Phone: 618-451-8430  
Cell Phone: 618-444-9644  
E-Mail: [bragland@terminalrailroad.com](mailto:bragland@terminalrailroad.com)

Additional Notes: Records will be maintained with DER at the above address

**Assistant Designated Employer Representative:**

Name: Matt Whitney  
Address: 1017 Olive Street, 5<sup>th</sup> Floor  
St. Louis, MO 63101

Office Phone: 618-451-8441  
Cell Phone: 618-973-5561  
E-Mail: [mwhitney@terminalrailroad.com](mailto:mwhitney@terminalrailroad.com)

Additional Notes:

**Medical Review Officer:**

Name: Dr. Christopher Knapp  
Address: 2044 Madison Avenue, Suite G6  
Granite City, IL 62040

Office Phone: 618-798-3376  
Fax Number: 618-798-3868  
E-Mail:

Additional Notes:

**Testing Laboratory (must be on HHS list of certified labs):**

Name: Clinical Reference Laboratory, Inc.  
Address: 8433 Quivira Road, Lenexa, KS 66215

Office Phone: 800-445-6917  
Fax Number:  
Additional Notes:

Name:  
Address:  
Office Phone:

Fax Number:  
Additional Notes:

Name:  
Address:  
Office Phone:  
Fax Number:  
Additional Notes:

**Substance Abuse Professional (SAP):**

Name: Bob Turck, MSW, LCSW, EAP  
Address: Gateway Regional Medical Center  
2100 Madison Avenue  
Granite City, IL 62040

Office Phone: 24 hour hotline 618-798-3457  
E-Mail:  
Additional Notes:

**III. Scope**

**This policy applies to all railroad personnel (including contractors and volunteers) who perform the following FRA regulated duties:**

- **Subject to the Federal Hours of Service (HOS) Laws also commonly referred to as “Covered Service” or,**
- **Employees performing Maintenance-of-Way (MOW) duties covered by the definition of “Roadway Worker” in § 214.7 or,**
- **Employees performing Mechanical functions (MECH) duties covered by the definition of “Mechanical Employees” in § 219.5.**

This railroad has a total of 112 regulated service employees (including volunteers and contractors) who perform “Hours of Service” functions.

This railroad has a total of 202 regulated service employees (including volunteers and contractors) who perform “Roadway Worker” functions.

This railroad has a total of 23 regulated service employees (including volunteers and contractors) who perform “Mechanical Employee” functions.

The total number of all regulated employees (**include covered service, roadway workers and mechanical employees**) at the time of this submission is: 315

**Note: Include any regulated contracted employees in the above counts that are included in the railroad’s random testing pools and covered by this policy.**

If applicable, identify the following for any regulated contractors your railroad is using **(if you have multiple regulated service contractors please add additional fields as necessary. If you have more than five (5) regulated contractors, use the attachment page at the end of this document)**

Name of contractor: Asplundh  
Regulated service performed for your railroad: Weed sprayer  
Address: 720 County Road 400  
Ironton, OH 45638

Contact Person: Chad Kinney  
Office Phone:215-784-4238  
Cell Phone:  
E-Mail: ckinn@asplundh.com  
Name of contractor: Badger Daylighting Corp  
Regulated service performed for your railroad: Vacuum truck  
Address: 8930 Motorsports Way  
Brownsburg, IN 46112

Contact Person: Janetta Nix  
Office Phone:317-456-1472  
Cell Phone:  
E-Mail: jnix@badgerinc.com  
Name of contractor: Brewster Companies, Inc.  
Regulated service performed for your railroad: Bridge construction  
Address: 6321 East Main  
Maryville, IL 62062

Contact Person: Alex Nazetta  
Office Phone:618-344-4468 Ext 103  
Cell Phone:  
E-Mail: anazetta@brewster-co.com  
Name of contractor: Bridge Access Specialties  
Regulated service performed for your railroad: Bridge inspection  
Address: PO Box 786  
Springfield, OR 97477

Contact Person: Morgan Bunch  
Office Phone:541-246-1270  
Cell Phone:  
E-Mail: mbunch@bridgeaccessspecialties.com  
Name of contractor: Byrnes and Jones Construction  
Regulated service performed for your railroad: Rail Crossing Paving  
Address: 13940 St. Charles Rock Road  
St. Louis, MO 63044

Contact Person: Haley Wood

Office Phone:314-567-7997

Cell Phone:

E-Mail: [hwood@byrnesandjones.com](mailto:hwood@byrnesandjones.com)

Enter any content that you want to repeat, including other content controls. You can also insert this control around table rows in order to repeat parts of a table.

Enter any content that you want to repeat, including other content controls. You can also insert this control around table rows in order to repeat parts of a table.

Enter any content that you want to repeat, including other content controls. You can also insert this control around table rows in order to repeat parts of a table.

Enter any content that you want to repeat, including other content controls. You can also insert this control around table rows in order to repeat parts of a table.

Identify whether you operate on tracks of another railroad (or otherwise engage in joint operations with another railroad, except as necessary for purposes of interchange). If so, please list name of railroad(s) and mileage:

Name of railroad: *Enter or paste text here*

Total numbers of miles: *Enter or paste text here*

**Previous Employer Checks:** This railroad is required to check on the drug and alcohol testing record of employees it is intending to use to perform regulated 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. **See 49 CFR 40.25.**

An employee must 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.

#### **IV. Testing Programs**

There are numerous situations when Federal **drug and/or alcohol tests** must be administered for the railroad to be in compliance with 49 CFR Part 219. Personnel performing functions listed in Section III of this policy will be required to submit to a drug and/or alcohol test in the instances set forth, as follows:

- 1) **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 Pre-Employment Alcohol Testing (Optional) – (49 CFR 219.502)**  
**Authorized but not required. This railroad chooses to conduct Federal alcohol pre-employment testing? Check one of the following boxes:**

Yes    No

2) **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.

Part 219.11(g) requires supervisory employees to have education and training on alcohol misuse and controlled substance use. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances. It will also prepare the supervisors to make the decisions necessary in reasonable suspicion and FRA post-accident situations (i.e., what is a qualifying event and who is to be tested).

The observation for alcohol must be made by at least one qualified supervisory employee who has received proper training in the signs and symptoms of alcohol use per 219.11(g). Documentation of this decision must be maintained, as required by Part 219 Subpart J.

The observation for drugs must be made by at least two qualified supervisory employees, one of which has received proper training in the signs and symptoms of drug use/misuse per 219.11(g). One qualified supervisor must be on-site, but the supervisor trained per 219.11(g), although preferred does not have to be the supervisor on-site. 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. **This is not a Federal requirement, but safety will be better assured if accomplished.**

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.

3) **Federal Reasonable Cause Testing** – (49 CFR 219.401)

*Authorized but not required.* **A railroad must choose whether or not to conduct Federal drug and alcohol Reasonable Cause testing.** If a railroad selects to conduct Federal (DOT) Reasonable Cause testing, then the railroad cannot perform company (non-DOT) testing for any event described in 219.403. If a railroad selects to conduct company (non-DOT) Reasonable Cause testing, then the railroad cannot perform DOT testing for any event described in 219.403.

**This railroad chooses to conduct *Federal* Reasonable Cause drug and alcohol testing for all train accident/incidents and rule violations that meet the criteria of 49 CFR 219.403. Check the appropriate box:**

Yes    No

A Federal reasonable cause drug and/or alcohol test may be required (employer’s decision) when a regulated service employee:

- a. Was involved in a qualifying Train accident/incident per 219.403 (a) and a supervisor has a reasonable belief based on specific and articulable facts that the regulated service person’s acts or omissions contributed to the occurrence or severity of the accident/incident; or
- b. Committed a rule violation described in 219.403 (b).

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 cause 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. **This is not a Federal requirement, but safety will be better assured if accomplished.**

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

4) **FRA Post-Accident Drug/Alcohol Testing** – (49 CFR 219.201)

FRA regulations require blood and urine specimens from all surviving **regulated service personnel** when they are directly involved in a qualifying accident or incident. Tissues are also collected, in addition to urine and blood from any fatality involving an on-duty railroad employee (**direct or “regulated service” contractual employee**). Events requiring FRA post-accident testing include (note regulatory exceptions will be followed):

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 or regulated contractor 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. 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. 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. 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) and (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.** Test any other regulated service employees that had a possible role in the cause or severity of the accident.

For an Impact Accident, Fatal Train Incident, Passenger Train Accident or Human-Factor Highway-Rail Grade Crossing Accident/Incident, test any other regulated service employees that had a possible role in the cause or severity of the accident. The railroad must exclude other regulated service 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.

If there is a fatality of any regulated service employee as result of a Highway-Rail Grade Crossing Accident/Incident, the fatally injured regulated employee must be tested regardless of fault.

**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.

The railroad supervisor(s) on the scene will make **timely** determinations as to the event being a qualifying event and which regulated service employees (if any) are required to be tested according to the rule.

This railroad will identify the appropriate personnel who must be tested and then ensure that specimens are collected and shipped.

**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, to the FRA's designated post-accident testing laboratory.

**Random Drug and Alcohol Testing** – (49 CFR 219.601)

The railroad is responsible for ensuring that the random program meets regulatory requirements and is approved by FRA (see Appendix A). The principles which are required in the FRA regulation for the plan to be in compliance are attached (see Appendix B). The selection process will ensure that each regulated service person has an equal chance of being selected at every random selection. The random plan shall ensure that testing is accomplished at the beginning and at the end of the duty period for alcohol. The **minimum** annual random percentage of alcohol testing at either end of the duty period is 10 percent over the course of the year.

**Regulated Service (Covered Service)**

Current employers must test at a **minimum** of **25 percent annual rate for drugs and 10 percent annual rate for alcohol** for employees who perform regulated duties subject to the Federal Hours of Service Laws “**Covered Service**”. A railroad is permitted to test at a higher rate than the minimum. You must identify if you are testing at a higher rate and if so, the rate(s):

50% for drugs and alcohol

**Regulated Service (Roadway Worker)**

Current employers must test at a **minimum** **25 percent annual rate for drugs and 10 percent annual rate for alcohol** for employees who perform regulated duties defined as “**Roadway Worker**” in **49 CFR § 214.7**. A railroad is permitted to test at a higher rate than the minimum. You must identify if you are testing at a higher rate and if so, the rate(s):

50% for drugs and alcohol

**Regulated Service (Mechanical Employee)**

Current employers must test at a **minimum** **50 percent annual rate for drugs and 25 percent annual rate for alcohol** for employees who perform regulated duties defined as “**Mechanical Employee**” in **49 CFR § 219.5**. A railroad is permitted to test at a higher rate than the minimum. You must identify if you are testing at a higher rate and if so, the rate(s):

50% for drugs and alcohol

### **Random Testing Pools:**

- a) Identify and maintain an up-to-date database or list of all personnel working in regulated service (at least once per quarter) and ensure they are all in the random pool(s). Identify how many random testing pools you have. For example, most short line railroads will have only one random pool, but larger railroads may have multiple pools:

[One random testing pool for regulated service employees](#)

- b) Identify what regulated service employee crafts/functions are in each of the railroad's random testing pool(s). For example, engineers, conductors, brakemen, switchmen, utility employees, hostlers, mechanical employees performing hostling duties, train dispatchers, signal maintainers, roadway workers, mechanical workers, etc.

[Trainmen, enginemen, utility men, flagmen, signal maintainers, hostlers, dispatchers, roadway workers, and mechanical workers.](#)

### **Random Selection and Testing Procedures:**

1. There is only one preferred method of selection: A computer program. The lottery style, e.g., drawing names out of a hat is no longer an acceptable method of selection. Identify the name of the **Computer Program** being utilized and provide a detailed description of the program below:

#### **Name of the computer program being used**

Selections for drugs and alcohol will be generated on a monthly basis (30 day window) by the Designated Employee Representative via <https://www.randomizer.org/#randomize> or a similar website. The number of selections will be made each month based on the Carrier's fulfillment of annual requirements.

#### **Detailed description of how the computer program functions:**

REGULATED EMPLOYEE POOL: Randomizer.org (or similar program) is an online computerized random selection tool that allows for random selections. Prior to the beginning of each month the DER will develop a list of FRA regulated employees expected to perform **hours of service, roadway worker and mechanical duties during the upcoming month**. The DER will list the Job Numbers and assign the number 1 to the first Job Number on the list and consecutively assign a number each Job Number on the list. For example, if there are 400 Job Numbers on the list they will be assigned a number from consecutively 1-400. If monthly changes are made to the Job Numbers, the date of the changes is noted at the top of the spreadsheet. The

spreadsheet is printed and retained for a minimum of two years. Once the random pool list has been created the DER will go to randomizer.org online and generate one set of numbers, numbers per set and the number range as in the example above the number range would 1-400 and enter randomize now. Randomizer will select 1 set of unique numbers from the range 1-400. The randomizer list is dated to determine when the selections were made. The DER prints out the random result sheet which includes the Job Numbers which were randomly selected by randomizer.org and keeps the record for two years. The DER compares the previously completed list of employees in the random pool and selects the Job Number which matches the number assigned to Job Number on the randomizer.org list. All employees working that Job Number that are properly selected will be tested for both drugs and alcohol during the quarterly testing window.

2. Identify whether your railroad is making selections by name, ID number, train number, job number, etc.  
[Job number](#)
3. Random Pools are in a consortium controlled by a Third-Party Administrator (C/TPA):  
 Yes  No
4. If using C/TPA consortium pools, please provide name of the C/TPA pool:  
[Enter or paste text here](#)
5. Random Pools are in a stand-alone pool managed by a Third-Party Administrator (TPA):  
 Yes  No

If your railroad is using a consortium/third party administrator to assist in random testing, identify the following information for the C/TPA (If you need to add additional fields use the “+” sign. If you need to delete a field use the “Undo Typing” button):

Name of C/TPA: [Gateway Reginal Hospital](#)  
Address: [2100 Madison Avenue](#)  
[Granite City, IL 62040](#)

Contact Person: [Dan Stephens](#)  
Phone Number: [618-798-3513](#)

Please mark the following services the C/TPA are performing for your railroad:  
 None

- Random Pool Maintenance
- Random Pool Selections
- Collection Services – Drug
- Collection Services – Alcohol
- HHS Laboratory
- Medical Review Officer (MRO)
- Substance Abuse Professional (SAP)
- Employee Assistance Professional (EAP)
- Drug and Alcohol Counselor (DAC)
- Other:

Name of C/TPA: Guardian Medical Logistics  
 Address: 1868 Craigshire Road  
 St. Louis, MO 63146

Contact Person: Donna Lowe  
 Phone Number: 314-576-7766

Please mark the following services the C/TPA are performing for your railroad:

- None
- Random Pool Maintenance
- Random Pool Selections
- Collection Services – Drug
- Collection Services – Alcohol
- HHS Laboratory
- Medical Review Officer (MRO)
- Substance Abuse Professional (SAP)
- Employee Assistance Professional (EAP)
- Drug and Alcohol Counselor (DAC)
- Other:

Name of C/TPA: Midwest Occupational Medicine  
 Address: 325 E. Madison (HWY 143)  
 Wood River, IL 62095

Contact Person: Tanya Jurcich  
 Phone Number: 618-252-5202

Please mark the following services the C/TPA are performing for your railroad:

- None

- Random Pool Maintenance
- Random Pool Selections
- Collection Services – Drug
- Collection Services – Alcohol
- HHS Laboratory
- Medical Review Officer (MRO)
- Substance Abuse Professional (SAP)
- Employee Assistance Professional (EAP)
- Drug and Alcohol Counselor (DAC)
- Other:

6. Identify how often your railroad is making selections, e.g., monthly or quarterly:  
*Monthly*

**Note: If selecting quarterly in order to maintain the deterrent effect of random testing for very small railroads and contractors, FRA is requiring each individual random testing pool established under subpart G to select and randomly test at least one entry per quarter, even if fewer tests are needed to meet FRA’s minimum random testing rates.**

Objective Procedure, if making quarterly selections:  
*Enter or paste text here*

7. Identify how you determine whether a selection is to be tested for drugs, for alcohol, or both:  
*All are tested for both*
8. Identify your testing “window,” e.g., 30 days:  
*30 days*

Note: If you are making monthly selections, the testing windows may not exceed 30 days and not past the end of the month. If you’re making quarterly selections, the testing window is 90 days but not past the end of the quarter.

9. Provide additional descriptions of your random testing selection procedure, as applicable:

The Program Administrator will notify the TRRA Officer no more than 24 hours in advance of the specific job designation or individual to be tested and the time to be tested, i.e. beginning, middle or end of shift. **EXCEPTION** – notification for weekend testing and Monday testing will be on the Friday prior to the scheduled test.

The collector and Program Administrator will determine times and locations, not the TRRA Officer.

10. This railroad will safeguard these selection records to ensure that information concerning collection dates and selections are not disclosed until necessary to arrange for collection or provide notifications.
11. These random testing records are required to be maintained for 2 years. This includes an electronic or hard copy “snapshot” of the random testing pool each time selections are made, a copy of the list of selected employees, a copy of the drug chain of custody form and/or alcohol testing form, and the reason for not testing any of the selected employees.
12. In the event that all or a clearly defined portion of the railroad is subject to an emergency such as a flood or severe ice storm, the ranking operations officer on duty is authorized to declare an emergency by completing a memorandum setting forth the facts necessitating this action. If such an emergency determination is made, the date/time of the emergency and random drug/alcohol tests that were suspended must be entered into the DER’s files. Random selections not administered because of the emergency are deemed void, and the selection numbers will be adjusted later to make the required percentage.
13. Only a substantiated medical emergency involving the selected person or an emergency involving an immediate family member (e.g., birth, death, or a medical emergency) provides the basis for excusing a regulated employee/person from being tested once notified. A medical emergency is defined as an acute medical condition requiring immediate emergency care. A person excluded under these criteria must provide substantiation from a credible outside professional (e.g., doctor, hospital, law enforcement officer, school authority, court official) which can be furnished prior to this release or within a reasonable period of time after the emergency has been resolved. Such excluded (excused) persons will not be tested based on this selection.
14. Once the regulated service person selection is made, the DER will arrange notification. No prior notification will be given. A selected person will only be tested during his/her tour of duty, extended only long enough to complete testing but not to exceed Federal hours of service law requirements. The person, once notified, must proceed to the selected testing facility IMMEDIATELY. Identify how your railroad will notify selected employees: The Program Administrator will then notify the TRRA Officer no more than 24 hours in advance of the specific job designation or individual to be tested and the time to be tested, i.e. beginning, middle or end of shift. **EXCEPTION** – notification for weekend testing and Monday testing will be on the Friday prior to the scheduled test. The collector and Program Administrator will determine times and locations, not the TRRA Officer. The TRRA officer will then notify the selected employee(s) of their testing requirement.

15. The collection date and time during the selection period (testing window) will be varied by the DER to ensure that it cannot be anticipated. It is not necessary for the railroad to randomly select the “testing date.”

## **V. Drug Testing Procedures**

The designated collection agents will be qualified and follow the proper collection procedures as described in 49 CFR Part 40.

- a. The Medical Review Officer (MRO) will review drug test results as required in 49 CFR Part 40. All test results will be reported exclusively through the MRO.
- b. A laboratory certified by the Department of Health and Human Services/ Substance Abuse and Mental Health Service Administration (DHHS/ SAMHSA), under the Mandatory Guidelines for Federal Workplace Drug Testing Programs, will perform all drug testing.
- c. Test results will be reported from the laboratory only to the MRO for review and action consistent with 49 CFR Part 40.
- d. The name of the individual providing the specimen will remain confidential and will not be provided to the laboratory performing the test. The testing laboratory is only able to identify the specimen by the specimen ID number printed on the chain-of-custody form. The laboratory will only use a urine custody and control form consistent with the requirements of 49 CFR Part 40.
- e. The designated laboratory will only test for the drugs listed in 49 CFR 40.85.
- f. The MRO will verify the results and report (using procedures in 49 CFR Part 40) to the DER whether the test was positive or negative and the drugs for which there was a positive result.

## **VI. 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 mailed 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.

## VII. Drug Test Results

For any FRA testing, the railroad should as a “best practice” notify the employee in writing of 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, if the person has a legitimate medical explanation for the presence of any controlled substance, and whether there is any basis to question the scientific sufficiency of the test results. 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 greater than 2mg/dL but less than or equal to 5 mg/dL), per 40.197, a negative-dilute is considered a negative test, although a railroad may, but is not required to direct the employee to immediately take another test. Such recollections must not be collected under direct observation unless there is another basis to do so. A railroad must treat all regulated employees the same. For example, it must not retest some employees and not others. A railroad may establish different policies for different types of tests (e.g., conduct retests in pre-employment situations, but not in random test situations).

**This railroad's policy for negative-dilutes that do not require re-collection under direct observation (when ordered by the MRO) is as follows:**

This railroad's policy for negative-dilutes is as follows: If the MRO determines that the drug test result is negative but dilute then an immediate second collection will take place. The donor will be tested within 24 hours of the result notification or the next day the donor reports in for duty. The reason for the test will be the same as the first negative dilute test. The results of the second test will be the final result the Company accepts. If the donor refuses to participate in the second collection will be considered a refusal to test. NOTE: this second collection will be unobserved unless an observed collection is requested by the MRO.

**VIII. 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.

**IX. Regulated Service Personnel Training Program (49 CFR 219.11)**

Each regulated service person will receive a copy of this policy and the other information requirements in 49 CFR Part 219.23 (e) which clearly states the prohibitions required by the regulation. In addition, each regulated person will be given information concerning the problems caused by alcohol or controlled substances and available methods of intervening when an alcohol or controlled substance problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management.

## **X. Prescription Drugs (40 CFR 219.103)**

The use of controlled substances (on Schedules II through V of the controlled substance list) is not prohibited if they are prescribed or authorized by a medical practitioner and used at the dosage prescribed or authorized. Either one treating medical professional or a railroad-designated physician should determine that use of the prescription(s) at the prescribed or authorized dosage is consistent with the safe performance of the employee's duties. Regulated service employees should also seek the advice of a medical professional whenever they are taking any over-the-counter drug that may adversely affect the safe performance of duties.

## **XI. 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 40.191).
- b. All DOT Federal return-to-duty and follow-up urine specimens must be collected under direct observation (using the direct observation procedures in 40.67 (i)). 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.
- d. 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."

## **XII. 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. The railroad is not prohibited from taking further action under its own company policy.
- 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 219.101 or 219.102, the employee may demand and must be provided an opportunity for a prompt post-suspension hearing. **See 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 regulated 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 will 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. Note: Federal regulation does not guarantee the employee will maintain an employment relationship. This is determined via employer and employee negotiation. These Federal return-to-duty and follow-up drug tests must be collected under direct observation.

- c. Identify other employer sanctions (if applicable) for a Federal alcohol test result of at least 0.02 percent but less than 0.04 percent:

A regulated service employee with a positive breath alcohol test of at least 0.02 percent but less than 0.04 percent will be required to undergo an evaluation conducted by the Carrier's Employee Assistance Program (EAP) to determine the need for treatment and/or education. The employee will be required to participate and comply with the EAP recommended treatment and any after care or follow-up treatment that may be recommended or required at their own expense.

After successful treatment, for a positive Federal alcohol test of at least 0.02 percent but less than 0.04 percent, per the EAP's requirements, the person must provide a Non-DOT return-to-duty alcohol test (which is negative) prior to being allowed to return to regulated service. In addition, the person will be subject to additional unannounced Non-DOT follow-up testing, as determined by the EAP, for a maximum period of 60 months, with a minimum of six tests being performed in the first twelve months. Failure to comply with these provisions and remain alcohol free will result in subsequent removal from regulated service and could result in disciplinary action, up to and including termination.

If an employee has a Federal alcohol test result of at least 0.02 percent or greater or a Federal positive drug test the employee will be removed from service and a formal Company Investigation will be scheduled to determine if TRRA Company Policy or GCOR 1.5 has been violated.

A second violation of this part could result in disciplinary action, up to and including termination. Any combination of two violations of drugs or alcohol, listed in part XII, could result in disciplinary action, up to and including termination.

Identify other employer sanctions (if applicable) for a Federal alcohol test result of 0.04 percent or greater:

*Enter or paste text here*

Identify other employer sanctions (if applicable) for a Federal positive drug test:

*Enter or paste text here*

### **XIII. Self-referral, Co-worker referral, and Non-peer referral (optional) Policies**

This railroad's policy to comply with 49 CFR Part 219.1001 and 49 CFR Part 219.1003 is as follows:

**Employment Relationship.** As per 219.1003(b), a regulated employee who enters and follows the tenants of this program as discussed below, will maintain his or her position upon successful completion of an education, counseling, and treatment program as specified by a Drug and Alcohol Counselor (DAC). Before the employee is charged with conduct sufficient to warrant dismissal, the employee must seek assistance through the railroad for his or her alcohol or drug use problem or be referred for such assistance by another employee or by a representative of the employee's collective bargaining unit.

**Imminent Detection.** An employee may not use the referral program for the purpose of avoiding the imminent and probable detection of a rule violation by a supervising employee. No employee may take advantage of self-referral after being notified of a testing event or while in imminent risk of being detected for possession of alcohol or controlled substances.

**Reasonable Suspicion.** In the case of a co-worker referral (which is mandatory), or a non-peer referral (which is optional), if the employee accepts the referral and has agreed to a Rule G waiver, there is no need for the railroad to perform a Federal reasonable suspicion test. If the Federal reasonable suspicion test occurs, the referral takes precedence and a written request shall be submitted to the FRA Drug and Alcohol Program Manager for permission for reclassification to non-DOT status. This will allow the employer to vacate the return-to-duty and follow-up (RTD/FU) requirements of the reasonable suspicion test violation. Thus, the co-worker referral will take precedence and all subsequent RTD/FU testing will be appropriately conducted under non-DOT/company authority as per Part 219 Subpart K. In this scenario, the reasonable suspicion positive test result(s) are not subject to 49 CFR Part 40.25 requests from any subsequent DOT-regulated employers.

In the case of a co-worker referral or a non-peer referral, when the employee does not accept the referral and does not agree to a Rule G waiver, the railroad must properly observe the employee for signs and symptoms of alcohol and/or drug use/misuse. If signs and symptoms are observed, the railroad must perform a Federal reasonable suspicion testing. In this scenario, the reasonable suspicion positive test result(s) are subject to DOT-regulated RTD/FU testing and 49 CFR Part 40.25 requests from any subsequent DOT-regulated employers.

**Referral Sources.** The railroad must specify whether, and under what circumstances, its policy provides for the acceptance of referrals from other sources, including (at the option of the railroad) supervisory employees. Identify acceptable referral sources besides the affected regulated service employee:

The TRRA will accept non-peer referrals from family members and friends (non-employee) that contact the railroad.

This railroad accepts referrals from non-peer sources?

Yes  No

Examples of non-peer sources include friends and family, etc. that contact the railroad. A railroad representative will meet with the employee in person regarding the information and determine whether to the employee is unsafe to work with or in violation of 49 CFR Part 219. If the railroad representative determines that employee is unsafe, the employee may either accept or reject the referral.

If rejected, a railroad representative trained in signs and symptoms would perform a Rule G observation on the employee in question. If signs and symptoms are present, then the railroad representative would order reasonable suspicion testing of the on-duty employee.

**General Conditions.** If the employee accepts the referral, they must contact the DAC within 5 days.

The employee must cooperate with the DAC in the recommended course of counseling or treatment. Locomotive engineers and conductors that do not cooperate with the DAC will be considered to have active substance abuse disorders as per 49 CFR Part 240.119 and 49 CFR Part 242.115 and would have their confidentiality waived.

Once an employee has contacted the DAC, the DAC's evaluation shall be completed within 10 working days. If more than one evaluation is required, the evaluations must be completed within 20 working days.

No follow-up treatment, care, or testing shall exceed 24 months unless it involved a Part 219 violation.

**Confidentiality.** The railroad treats the referral and subsequent handling, including counseling and treatment, as confidential. With respect to a certified locomotive engineer, conductor or a candidate for certification, the policy of confidentiality is waived (to the extent that the railroad shall receive from the Employee Assistance Professional (EAP) or DAC, official notice of the substance abuse disorder and shall suspend or revoke the certification, as appropriate) if the person at any time refuses to cooperate in a recommended course of counseling or treatment.

Any drug and/or alcohol testing conducted pursuant to this railroad's referral policy is non-Federal testing because a violation of Federal regulations has not occurred.

**Leave of Absence.** The railroad will grant a minimum leave of absence that the DAC recommends completion of a primary education, counseling, or treatment program

and to establish control over the employee's drug or alcohol abuse problem. An employee with an active substance abuse disorder may not perform regulated service until the DAC reports that safety is no longer affected.

**Return to Service.** The employee will be returned to service on the recommendation of the DAC. The employee must be returned to service within five working days of the DAC's notification to the railroad that the employee is fit to return to regulated service and the receipt of a follow-up testing plan as per Part 219.1003(h)(2). The railroad may condition the employee's return on a return-to-duty medical evaluation.

**This railroad requires a return-to-duty medical evaluation?**

Yes  No

**Compensation.** 49 CFR Part 219.1001(d)(1) does not require the railroad to compensate the employee for any period that the regulated employee is restricted from performing regulated service under the referral program. However, compensation at a nominal rate has been seen to markedly increase participation in the referral program to enhance safety at the railroad.

**This railroad compensates employees while engaged in a referral program of education, counseling, and treatment?**

Yes  No

Compensation is at  % of regular pay while participating in a referral program.

**Self-referral:** Regulated employees may contact the DAC at the following telephone and/or email address and contact hours:

**Drug and Alcohol Counselor (DAC):**

Contact person: Bob Turck  
Address: 2100 Madison Avenue  
Granite City, IL 62040

Phone Number: 24 hour hotline 618-798-3457

**Optional Provisions.**

1. The policy may provide that it does not apply to an employee who has previously been assisted by the railroad under a policy or program substantially consistent with 49 CFR Part 219.1005(c) or who has previously elected to waive investigation under 49 CFR Part 219.1005 (co-worker report policy). **Adopts this option:**

Yes  No

**If you checked the above option “No”, please identify how many times and/or at what intervals an employee may use the referral programs:**

*Enter or paste text here*

2. A referral policy may provide that the rule of confidentiality is waived if the employee at any time refuses to cooperate in a DAC’s 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. Identify whether you adopt the first, second, or both options:

**Adopts Both Options:**

Yes  No  N/A

**Adopts 1st Option only:**

Yes  No  N/A

**Adopts 2nd Option only:**

Yes  No  N/A

3. The policy may provide that, in order to invoke its benefits, the employee must report to the contact designated by the railroad either during non-duty hours (i.e., at a time when the employee is off duty); or while unimpaired and otherwise in compliance with the railroad’s alcohol and drug rules consistent with 219.1005(d).

Identify whether you adopt this optional provision:

Yes  No

4. The policy may require successful completion of a return-to-service medical examination as a further condition on reinstatement in regulated service. Identify whether you adopt this optional provision:

Yes  No

5. Other Optional Provisions:

*Enter or paste text here*

**Co-worker referral General Conditions and Procedures.**

1. The alleged violation must come 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 Part 219 or the railroad’s alcohol and drug rules.
2. If the railroad representative determines that the employee is in violation, the railroad will immediately remove the employee from service in accordance with its existing policies and procedures. The railroad must allow the

employee the opportunity to accept the co-worker referral. If rejected, the railroad may proceed to reasonable suspicion testing based on signs and symptoms of prohibited alcohol or drug use as determined by a trained supervisor.

## APPENDIX A

Once the FRA has approved a Random drug and alcohol testing plan, the railroad will receive an approval letter, which includes these conditions.

### STANDARD APPROVAL CONDITIONS FOR RANDOM TESTING PROGRAMS

1. This approval is effective upon receipt with respect to all matters within its scope. FRA reserves administration jurisdiction over all approvals and may reopen review based upon experience gained during implementation (audits).
2. Approval of the subject random testing program does not constitute or imply the granting of a waiver or exemption from any provision of Federal law or regulation. Compliance with all applicable provisions of 49 CFR Parts 219 and 40 is required. All random program plans must be applied in accordance with the criteria listed in this Appendix A and Appendix B.
3. Approval is contingent upon the railroad making appropriate amendments to the program to conform to any pertinent regulatory amendments that may be issued hereafter. Any such program amendments that may be required shall be submitted to the Associate Administrator for Safety at FRA by the effective date of the subject regulatory amendments, or by the expiration of 30 days from publication of the regulatory amendments in the *Federal Register*, whichever is later.
4. Amendments to the program shall be submitted as required by 49 CFR 219.605 and 49 CFR 219.607 and 49 CFR 219.609 and shall not be implemented prior to approval. The following guidance is provided with respect to when a program is deemed to have been amended.
  - A. Any change in the selection methodology, the criteria for scheduling collections, non-availability criteria, or other structural element is a program amendment. Any change in the organizational level at which a function is carried out is a program amendment.
  - B. Substitution of incumbents performing the same function at the same organizational level (persons or contractors/volunteers) is not deemed to amend the program. Notification of these changes would be appreciated to assist FRA in maintaining a liaison but is not required.
  - C. Any change in a program that is occasioned by an amendment of an applicable DOT/FRA regulation and that involves the exercise of discretion to choose between or among one or more courses of action is a program amendment required to be filed under item 3 above. Any non-discretionary change in a program that is required by amendment of an applicable DOT/FRA regulation is not considered a program amendment requiring approval; however, the Office of Safety, FRA, would appreciate receipt of an informational copy of the revised program document showing current compliance.
  - D. Any case not addressed above may be resolved by contacting the Office of Safety, Administrator for Safety or that individual's delegate.

## APPENDIX B

### CRITERIA FOR ASSESSING DEPARTMENT OF TRANSPORTATION (DOT) RANDOM DRUG AND ALCOHOL TESTING PROGRAMS

#### Section I. Random Testing Pools

- A. Random pool(s) must accurately and completely include all regulated service personnel. Whoever is performing the safety-sensitive “regulated service”, regardless of job title or status, is subject to 49 CFR Part 219 requirements (supervisors, volunteers, contractors, etc.). Pool lists must be retained for a minimum of two years.
- B. An employer may not mix regulated service and non-regulated service personnel in the same pool.
- C. Multiple pools for an employer are acceptable.
- D. Employees do not need to be placed in separate pools for drug and alcohol testing selection.
- E. Employees from different DOT operating administrations can be included in the same pool. It is strongly recommended, however, that employers not mix groups of personnel subject to different drug or different alcohol testing rates (i.e., having some employees subject to a 50% rate for drugs and other employees subject to a 25% rate in the same pool). If they do, they must test the entire pool at the highest selection rate for any of the groups with personnel in the pool.
- F. Pools may not be diluted with regulated service personnel who rarely perform regulated service duties (i.e., less than once per quarter).
- G. Pools must be routinely updated (i.e., at least monthly for employers with either a changing workforce or seasonal employees; and quarterly for employers with a generally stable workforce).
- H. Besides individual employees, specific jobs (i.e., third shift main dispatcher at XYZ location) or operational units (i.e., trains) may also be pool entries. However, there may not be a significant difference in the size of the entries in the pool.
- I. Pool entries may not be constructed in a way which could result in a manager/supervisor having discretion as to who would be actually provide a sample (e.g., a specific job cannot be selected with multiple people working in it at the same time, but with only one to be tested).

#### Section II. Random Selections

- A. Everyone in a pool must have an equal chance of selection in each selection period.
  - 1. No individual, job, or operational unit may be removed from the pool if it is still actively performing regulated service. However, employees doing de minimus regulated service may be eliminated from the pool (see Section I.-F).

2. There may be no selections without replacement (i.e., an individual cannot be removed from the pool because he or she was previously tested).
  3. No selection weightings are allowed which would increase or decrease the chance of any individual being selected.
- B. The following selection options are acceptable. Note that manual selection using names or social security numbers drawn out of a hat (or equivalent) is no longer an acceptable practice:
1. Computer programs which randomly select entries from an employee list without apparent bias. The specific selection criteria used by the computer must be extensively detailed in writing, and each computer draw must be retained as a record for a minimum of two years; or
  2. Manual selection from a list of employees using a random-number table. The specific criteria used to select from the table must be documented in writing, including detail on how the initial starting point in the table was determined. Each draw, as well as a copy of the table portion used, must be retained as a record for a minimum of two years.
- C. If the employee testing pool is so small that it does not allow testing each selection period, then the employer must have in place a mechanism to randomly determine which selection periods will have selections and which will not. The specific criteria used to make this determination must be detailed in writing and the determination itself must be retained as a record for a minimum of two years.
- D. If required drug and alcohol testing rates are different (i.e., 25% for drugs and 10% for alcohol) and a single pool is being used, it is permissible to select one list of employees and designate a proportion for both drug and alcohol testing and a proportion for drug testing only. The specific criteria used to make this determination must be detailed in writing, and the master selection list with both sub-groups clearly identified must be retained as a record for a minimum of two years.
- E. Employers should carefully monitor significant changes in its workforce to ensure that an appropriate number of tests will be conducted each year. Unless otherwise directed by the DOT Operating Administration, changes in the employee base of greater than 10% in a quarter should result in a recalculation of total tests required.

### **Section III. Implementation of Random Collections**

- A. Collections must be distributed unpredictably throughout the designated testing period, covering all operating days (including holidays) and shifts (24-hour clock). There is no expectation that day/night or shift collection distributions be equal but there must be sufficient testing to establish deterrence by generally mirroring employer operations.
- B. Collections must be unpredictable within a work shift (some collections must be conducted at the beginning, middle, and end). There is no expectation that “within-shift” collection distributions be equal. Sufficient testing must be

conducted at the start, middle and end of shifts to provide deterrence. Both beginning of and ending of shift collections are particularly important. For alcohol testing, at least 10% of successful collections must fall within each period of the shift.

- C. No discretion is allowed with collection dates or collection times which would result in a subjective choice by a field manager/supervisor as to who was actually collected. That is, if a test time frame is permitted in the employer's program, a manager/supervisor with knowledge of specific personnel assignments may not have discretion in the selection of who will be tested.
- D. Specific reasons for "no-tests" must be documented in writing by the employer, with records maintained for two years. Acceptable reasons for no-tests should relate to critical safety concerns, unforeseen or unpredictable significant adverse impact to operations, or employee illness or vacation.

#### **Section IV. Records**

All records which support the random testing program, including notes, memoranda, pool makeups, number tables, etc., must be retained for a minimum of two years.



## **What You Need to Know About Federal Drug and Alcohol Testing**

Federal drug & alcohol testing in the railroad industry must comply with DOT and FRA Federal regulations/procedures. This flier is a cooperative effort to provide regulated employees like you with the information you need to comply with Federal testing. Any other testing would be conducted under company authority.

- DOT and FRA testing regulations (49 CFR Parts 40 and 219) apply to all regulated employees who perform work regulated by the Federal Hours of Service Laws (see 49 U.S.C. §§ 21101-21108) **or** performing duties as Maintenance-of-Way (MOW) workers as described in the definition of “Roadway Worker” in § 214.7 **or** employees performing Mechanical functions (MECH) duties covered by the definition of “Mechanical Employees” in § 219.5. (e.g., train and engine employees, dispatchers, signal employees, roadway workers and mechanical employees).
- Always conduct yourself in a business-like manner and do not joke or make fun of the collection process. Testing is part of your responsibilities as a safety-sensitive rail employee.
- Follow the specimen collector’s instructions; e.g., remove your coat and empty your pockets.
- Be alert during the collection process and save the copies of the forms that are given to you.
- The paper form that is used to record the testing information will identify whether the test is under Federal or company authority, and state the reason for the test. A special form is used for FRA post-accident testing.
- Only the results of a **Federal** test (positive, adulterated, or substituted drug test; positive alcohol test - concentration of 0.04 or more; or refusal) trigger Federal sanctions, which include engineer decertification under Part 240 and conductor decertification under Part 242.
- If you feel you have been wrongfully charged with a Federal drug or alcohol violation, you are entitled to a hearing per 219.104 (c).
- Testing for **drugs** requires a urine specimen. Testing for **alcohol** uses a breathalyzer or a saliva swab (blood is taken for FRA post-accident testing only).

### **Drug and Alcohol Prohibitions**

You are in violation of Federal regulations if you are in possession of alcohol or illegal drugs while assigned to perform regulated service; or if you use alcohol on duty; or within 4 hours of reporting for regulated service; or after receiving notice to report (whichever is the lesser period). Use of illegal drugs is prohibited on or off-duty.

**Alcohol Concentration Below 0.02:** A regulated employer may not use a Federal test result below 0.02 for Federal or company action. Breathalyzers are not certified at levels below 0.02, so a test result below 0.02 is negative.

**Alcohol Concentration 0.02 to 0.039:** If you are on railroad property with an alcohol test result from 0.02 through 0.039, your test result is “positive” for alcohol, and the regulated employer must remove you from regulated service for at least 8 hours. The regulated employer is not prohibited from taking further disciplinary action under company policy.

**Alcohol Concentration 0.04 or More and/or Illegal/Unauthorized Drug Use:** If you test positive for illegal or unauthorized drugs, and/or if you test positive for alcohol at 0.04 or higher,

you are in “violation” of the Federal rules and the regulated employer must remove you from regulated service. To be allowed to return to regulated service, you must first:

- Complete the Federal return-to-duty requirements, including evaluation by a Substance Abuse Professional and any recommended education and/or treatment; and have a negative result on your Federal return-to-duty test.
- If the regulated employer chooses to return you to duty, you may be subject to Federal follow-up testing for up to 60 months. You will take a minimum of six follow-up tests in the year after you return to work.

**Drugs Tested:** A certified laboratory tests your urine specimen for marijuana, cocaine, opioids, amphetamines, and PCP (and additional drugs for FRA post-accident testing).

**Non-Negative Drug Test:** The testing laboratory will report a non-negative (positive, adulterated, invalid, or substituted result) to the regulated employer’s Medical Review Officer (MRO).

- If your test result is non-negative, the MRO will interview you to determine whether you have a legitimate medical explanation for your test result (for example, use of a prescribed medication).
- The MRO will inform you of your right to request a test of your “split specimen” at a different laboratory. The regulated employer may charge the cost of testing your split specimen back to you if your split specimen test result is positive; and you only have 72 hours to make this request.

### **Prescription and Over-The-Counter Medications**

You must inform one of your treating physicians of all the prescribed and over-the-counter drugs you are taking so that your doctor can determine if your use of these drugs is consistent with the safe performance of your duties.

- You must use the medication at the doctor’s prescribed or authorized dosage.
- The regulated employer may require you to obtain prior approval for any drugs you are taking.
- **Use Only Prescriptions in Your Name:** You may only legally use medications prescribed for you. You are not authorized to use medication prescribed for someone else, such as medications prescribed for your spouse, parents, or children. Using someone else’s prescription drugs can result in a positive Federal test result.

### **Direct Observation Urine Collection**

Federal regulations require a collector or observer to directly observe you while you provide your urine specimen if:

- Your previous urine specimen was out of normal temperature range; or
- The collector previously observed you attempting to tamper or substitute a specimen; or
- Your previous test result was invalid due to an interfering substance and you did not have a legitimate medical explanation; or
- Your split specimen could not be tested following a non-negative test result; or
- A Federal return-to-duty or follow-up test (after you’ve had a Federal positive test result or refusal to test). The collector (or the observer) must be of the same gender as you for direct observation collections.

### **Shy Bladder (If you have difficulty providing a urine specimen)**

- After your first unsuccessful attempt to provide an acceptable specimen, you have up to 3 hours to produce a single specimen of sufficient volume (you can’t combine specimens). You can consume up to 40 ounces of fluid.
- If you do not provide a specimen within those 3 hours, you must undergo a medical evaluation to determine if there was a medical reason for your inability to do so. If a

physician determines that there was no medical reason for your failure to provide a urine specimen, you will be charged with a refusal.

- Hours of service limitations generally apply to random collections except when the collector determines a direct observation collection is required (as referenced above).

### **Refusal to Test**

A refusal to take a Federal test usually has harsher penalties than a positive test result. **Never** refuse to cooperate with the testing requirements. Take the test and if needed, address any issues you have later. A refusal includes:

- Failure to appear for a test or remain at the testing site
- Failure to cooperate with the testing process
- Failure to provide a sufficient amount of breath or urine (without an adequate medical explanation as determined by a physician through a required medical evaluation)
- Adulteration or substitution of your urine specimen
- Failure to permit any part of the direct observation procedures.

### **Fatal Flaws**

There are only a few procedural errors serious enough to be considered “fatal” flaws that cause a Federal drug or alcohol test to be cancelled. A fatal flaw is a non-correctable procedural error which calls into question whether the specimen tested was really yours or whether the test result on your specimen was correct (for example, if the specimen ID numbers on your specimen bottle do not match those on your test form).

### **Highway- Rail Grade Crossing Accidents**

If you are involved in a collision at a Highway-rail grade crossing, the event would *not* normally meet the criteria for Post-Accident testing, unless it meets specific Human Factor criteria described in 49 CFR Part 219.201(5)(i-v).

Since FRA regulations cover specific criteria for post-accident testing at highway-rail grade crossings, State and local laws on toxicological testing after rail accidents may not apply. **But**, an officer can still require you to be tested if he or she has “probable cause” to suspect that you were impaired (this has to be more than just the fact that an accident occurred - for example, the officer finds an open beer bottle in the cab) at the time of the accident. FRA does **not** advise resistance to law enforcement action. You must comply if the officer decides to test you. A carrier officer should become involved in this discussion immediately.

### **Voluntary Referral and Co-Worker Report Policies**

- All regulated employers must have both of these programs available if you decide to voluntarily initiate action to address a substance abuse problem, whether that problem is yours or that of a co-worker.
- If you ask for help or a co-worker refers you under one of these programs, the regulated employer must keep you in their employment, maintain your confidentiality, and provide you a leave of absence as specified by the Drug and Alcohol Counselor (DAC) for treatment.
- You must follow the program’s guidelines to maintain these employee protections. The regulated employer is required to offer you only one “bite at the apple,” but programs vary. Check with your employer.

For more complete information review 49 CFR Part 40 and Part 219, ask your union representative, or your regulated employer’s Designated Employer Representative (DER) to share additional information with you. Text of the CFR is available at:

<http://railroads.dot.gov/divisions/partnerships-programs/drug-and-alcohol>.

### **ADDITIONAL ATTACHMENT INFORMATION**

To add additional fields for the below entries hit the + sign at the bottom right of the box. To remove the extra field hit the “Undo Typing” button. Be sure to hit the enter button after your last entry before you add an extra field with the + sign, this will create space between your entries.

*Enter or paste any content that you wish to add to this document. Hit enter before using the + sign and adding another section*

Name of contractor: Cascade Drilling  
Regulated service performed for your railroad: Drill for soil samples  
PO Box 1184  
Woodinville, WA 98072

Contact Person: Alexander Amort  
Office Phone:415-302-1231  
Cell Phone:  
E-Mail: aamort@cascade-env.com

Enter any content that you want to repeat, including other content controls. You can also insert this control around table rows in order to repeat parts of a table.

Enter any content that you want to repeat, including other content controls. You can also insert this control around table rows in order to repeat parts of a table.

Name of contractor: Christ Brothers Asphalt  
Regulated service performed for your railroad: Asphalt crossings  
820 South Fritz Street  
Lebanon, IL 62254

Contact Person: Dennis Barnes  
Office Phone:618-537-6174  
Cell Phone:  
E-Mail: dbarnes@cbasphalt.com

*Enter or paste any content that you wish to add to this document. Hit enter before using the + sign and adding another section*

Name of contractor: Crawford, Murphy, and Tilly, Inc.  
Regulated service performed for your railroad: Bridge Inspections  
2750 W. Washington  
Springfield, IL 62702

Contact Person: Kristy Allen  
Office Phone:217-572-1129  
Cell Phone:  
E-Mail: kallen@cmtengr.com

Name of contractor: Ironhorse  
Regulated service performed for your railroad: Miscellaneous track repairs  
901 West Myrtle Street  
Baldwin, IL 62217

Contact Person: Paula Phelps  
Office Phone:618-785-2221  
Cell Phone:  
E-Mail: paula@ironhorse.us.com

*Enter or paste any content that you wish to add to this document. Hit enter before using the + sign and adding another section*

Name of contractor: Koppers Railroad Structures, Inc.  
Regulated service performed for your railroad: Steel repairs  
4546 Tompkins Drive  
Madison, WI 53716

Contact Person: Robbie Yates  
Office Phone:608-395-6611  
Cell Phone:  
E-Mail: yatesrl@koppers.com  
Name of contractor: KM Specialty Systems  
Regulated service performed for your railroad: Lubricator repair  
PO Box 99  
8055 SR 62 West  
Chandler, IN 47610

Contact Person: Luke Winge  
Office Phone:812-925-3000  
Cell Phone:  
E-Mail: lwinge@kmspecialty.com  
Name of contractor: Design Nine  
Regulated service performed for your railroad: Survey/Construction Inspection  
11166 Tesson Ferry Road, Suite 100  
St. Louis, MO 63123

Contact Person: Ralph Stone  
Office Phone:314-729-7600  
Cell Phone:  
E-Mail: rsstone@design9.com  
Name of contractor: EnviroRail, Inc.  
Regulated service performed for your railroad: Rail construction  
PO Box 540302  
Omaha, NE 68154

Contact Person: Jason Luce  
Office Phone:531-444-8965  
Cell Phone:  
E-Mail: Jason.luce@enviroail.net

*Enter or paste any content that you wish to add to this document. Hit enter before using the + sign and adding another section*

Name of contractor: Hulcher

Regulated service performed for your railroad: Miscellaneous track repair  
PO Box 203532  
Dallas, TX 75320

Contact Person: Magen Autwell  
Office Phone:940-387-0099 Ext 3440  
Cell Phone:  
E-Mail: mautwell@hulcher.com  
Name of contractor: L. B. Foster  
Regulated service performed for your railroad: trackside greasers  
415 Holiday Drive, Building 1

Contact Person: Lynn Rajchel  
Office Phone:412-928-3421  
Cell Phone:  
E-Mail: lrajchel@lbfooster.com  
Name of contractor: Lil Rock Electrical Construction, Inc.  
Regulated service performed for your railroad: Electrical repair/signal  
2310 Franklin Street  
PO Box 30  
Carlyle, IL 62231

Contact Person: Myranda Weber  
Office Phone:618-566-8383  
Cell Phone:  
E-Mail: myranda@lilrockinc.com  
Name of contractor: L. Keeley Construction  
Regulated service performed for your railroad: Asphalt  
500 South Ewing Avenue, Suite G  
St. Louis, MO 63103

Contact Person: April Lopinot  
Office Phone:618-802-6077  
Cell Phone:  
E-Mail: alopinot@lkeeley.com  
Name of contractor: Middendorf Excavating, Inc.  
Regulated service performed for your railroad: Excavation work/tie renewal  
PO Box 676  
Columbia, IL 62236

Contact Person: Allan Middendorf  
Office Phone:618-509-5802  
Cell Phone:  
E-Mail: allan@middendorfinc.com  
Name of contractor: Modjeski and Masters (CSA)  
Regulated service performed for your railroad: Bridge Inspection

#4 Sunset Hills Professional Center  
Edwardsville, IL 62025

Contact Person: Aaron C. Kober  
Office Phone:618-659-9102 Ext 21  
Cell Phone:  
E-Mail: ackober@modjeski.com  
Name of contractor: Plocher Construction Company  
Regulated service performed for your railroad: General construction  
2808 Thole Plocher Road  
Highland, IL 62249

Contact Person: Scott Plocher  
Office Phone:618-654-9408  
Cell Phone:  
E-Mail: sjplocher@plocherco.com  
Name of contractor: Prewett Enterprises, Inc.  
Regulated service performed for your railroad: Bridge tie installation  
6230 Stateline Road  
Walls, MS 38680

Contact Person: James Hinton  
Office Phone:901-833-2915  
Cell Phone:  
E-Mail: james.hinton@bandpent.com  
Name of contractor: Progress Rail  
Regulated service performed for your railroad: on track equipment repair  
1605 Progress Drive  
Albertville, AL 35950

Contact Person: Leanna Lacks  
Office Phone:256-505-6099  
Cell Phone:  
E-Mail: llacks@progressrail.com  
Name of contractor: RJ Corman  
Regulated service performed for your railroad: Miscellaneous Track repair  
PO Box 788  
101 RJ Corman Drive  
Nicholasville, KY 40356

Contact Person: Heidi Caudill  
Office Phone:859-881-6624  
Cell Phone:  
E-Mail: Heidi.caudill@rjcorman.com  
Name of contractor: RailPros Holdings, LLC  
Regulated service performed for your railroad: Flagging Services

1705 West Northwest Hwy  
Grapevine, TX 76051

Contact Person: Rick Bellew  
Office Phone:682-802-0929  
Cell Phone:  
E-Mail: rick.bellew@railpros.com  
Name of contractor: Railworks  
Regulated service performed for your railroad: Track construction  
5 Penn Plaza, 15<sup>th</sup> Floor  
New York, NY 10001

Contact Person: Greg Mays  
Office Phone:330-720-2308  
Cell Phone:  
E-Mail: gmays@railworks.com  
Name of contractor: Reinhold Electric  
Regulated service performed for your railroad: Miscellaneous regulated work  
2511 Lemay Ferry Road  
St. Louis, MO 63125

Contact Person: Mark Palmer  
Office Phone:314-562-6104  
Cell Phone:  
E-Mail: mark@reinholdelectric.com  
Name of contractor: Rivercity Ironworks LLC  
Regulated service performed for your railroad: Bridge inspection/repair  
306 Blueberry Drive  
DeSoto, MO 63020

Contact Person: Brian Bunfill  
Office Phone:618-830-8834  
Cell Phone:  
E-Mail: rivercity.ironworks@gmail.com  
Name of contractor: Shannon and Wilson, Inc.  
Regulated service performed for your railroad: Underground drilling and  
geotechnical engineering  
400 North 34<sup>th</sup> Street, Suite 100  
Seattle, WA 98103

Contact Person: Joseph Laprade  
Office Phone:206-632-8020  
Cell Phone:  
E-Mail: jfl@shanwil.com  
Name of contractor: Southeast Vegetation Management  
Regulated service performed for your railroad: Weed spraying

PO Box 43  
Brierfield, AL 35035

Contact Person: Scott Dailey  
Office Phone:205-288-3506  
Cell Phone:  
E-Mail: scott@southwestvm.com  
Name of contractor: Sperry Rail, Inc.  
Regulated service performed for your railroad: Track Inspection  
46 Shelter Rock Road  
Danbury, CT 06810

Contact Person: Kyle Murphy  
Office Phone:203-791-4500  
Cell Phone:  
E-Mail: kyle.murphy@sperryrail.com  
Name of contractor: St. Louis Bridge Company  
Regulated service performed for your railroad: Bridge Inspection  
655 Landmark Drive  
Arnold, MO 63010

Contact Person: Janet Webb  
Office Phone:636-296-3300 Ext 1116  
Cell Phone:  
E-Mail: janetw@stlbridge.com  
Name of contractor: St. Louis Testing Laboratories  
Regulated service performed for your railroad: Critical Weld testing  
2810 Clark Avenue  
St. Louis, MO 63103

Contact Person: Don Baumer  
Office Phone:314-531-8080  
Cell Phone:  
E-Mail: dbaumer@labinc.com  
Name of contractor: Transystems Corporations  
Regulated service performed for your railroad: Bridge Inspections  
2400 Pershing Road  
Suite 400  
Kansas City, MO 64108

Contact Person: Kelly Garst  
Office Phone:816-329-8700  
Cell Phone:  
E-Mail: kmgarst@transystems.com  
Name of contractor: Wabtec Company  
Regulated service performed for your railroad: PTC

5011 Gate Parkway, Building 100-400  
Jacksonville, FL 32256

Contact Person: David Amentrano

Office Phone:904-596-1242

Cell Phone:

E-Mail: [damentrano@wabtec.com](mailto:damentrano@wabtec.com)

Name of contractor: Walsh Contruction Company

Regulated service performed for your railroad: Bridge construction

929 West Adams Street

Chicago, IL 60607

Contact Person: Rhonda Ceska

Office Phone:312-492-0790

Cell Phone:

E-Mail: [rceska@walshgroup.com](mailto:rceska@walshgroup.com)

Name of contractor: Will Electronics

Regulated service performed for your railroad: Security cameras

9789 Reavis Park Drive

St. Louis, MO 63123

Contact Person: David Bode

Office Phone:314-351-1896

Cell Phone:

E-Mail: [dbode@willelectronics.com](mailto:dbode@willelectronics.com)