UNION PACIFIC RAILROAD DRUG AND ALCOHOL POLICY

Effective October 1, 2013
PB-20860

BUILDING AMERICA®

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1.0 PREFACE

- Union Pacific Railroad's (Union Pacific) Drug and Alcohol Policy 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 Union Pacific 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 "covered employee" also applies to a non-covered 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, Federal Aviation Administration (FAA), or Federal Motor Carrier Safety Administration (FMCSA) regulation. If this policy is in conflict with, or inadvertently omits any regulatory requirements, the requirement still 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/Content3asp?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 Union Pacific Drug & Alcohol Testing information help line at (800) 840-3784.

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) 5
6.0 UNION PACIFIC POLICY ON PROHIBITIONS 10
7.0 FEDERAL POST-ACCIDENT TOXICOLOGICAL TESTING 14
8.0 FRA MANDATORY TESTING FOR REASONABLE SUSPICION 18
9.0 REASONABLE SUSPICION AND REASONABLE CAUSE 19
10.0 PRE-EMPLOYMENT TESTS 21
11.0 RANDOM ALCOHOL AND DRUG TESTING PROGRAMS 22
12.0 UP POLICY ON FITNESS EVALUATION 23
13.0 SAMPLE COLLECTION AND ANALYSIS 25
14.0 MRO REVIEW (49 CFR Part 40, Subpart G) 27
15.0 SPLIT DRUG TEST SAMPLE 28
16.0 REFUSALS TO PERMIT TESTING AND TAMPERING 29
17.0 REMOVAL FROM SERVICE AND DISCIPLINE 32
18.0 VOLUNTARY REFERRAL POLICY (49 CFR Part 219.403) 32
19.0 CO-WORKER REPORT (49 CFR Part 219.405) 34
20.0 MANAGER REFERRAL 37
21.0 ONE TIME RETURN TO SERVICE AND TEN-YEAR POLICY 39
22.0 REINSTATEMENT INSTRUCTIONS 40
23.0 FOLLOW-UP TESTING PROGRAM 42
24.0 DEFINITIONS 44
25.0 RESERVATION OF RIGHTS 46

3.0 GENERAL

3.1 Purpose

- The purpose of the Union Pacific 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 Union Pacific Commitment

- Union Pacific 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, Union Pacific 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), the Federal Motor Carrier Safety Administration (FMCSA), and the Federal Aviation Administration (FAA).

3.3 A Health Problem

- Union Pacific has long recognized that substance abuse is a health problem which can be successfully addressed.
- Our EAP was developed to assist employees with personal and work-related problems. However, many substance abusers deny their problems and do not seek help voluntarily.
- For this reason, the Union Pacific and union leadership have 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 Union Pacific employees.

- Compliance with the requirements of this policy is a condition of employment at Union Pacific.

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 covered 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 service covered by the Hours of Service law, such as train and engine service employees, train dispatchers, mechanical department locomotive movers, bridge tenders, clerks who handle train orders, and signal employees. The regulations also require that samples be collected from the remains of any employee who is fatally injured in certain accident 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 UP 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 Parts 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 covered service.***

5.1.2 ***No employee may report for covered service, or go or remain on duty in covered 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 covered service, or***
- ***After receiving notice to report for covered service.***

5.1.4 ***Prohibition on abuse of controlled substances.***

- ***No employee who performs covered 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 UP Policy

5.2.1 Union Pacific 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 Union Pacific property. **Any exception or modification to this policy must be cleared by the appropriate VP or higher**.

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.deadiversion.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 UP Policy

5.4.1 Union Pacific requires employees 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 Fitness for Duty Nurse.

Union Pacific may require an employee, to inform HMS of specific or general types of therapeutic (prescription or over-the-counter) drugs, if HMS concludes that use of such drugs poses 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.

Union Pacific 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 HMS concludes that use of such drugs poses significant safety risks for work. Work restrictions may include requirements for monitoring by EAP or HMS, including periodic drug screens.

If Union Pacific 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 Health and Medical Services. In such cases, the FFD determination of HMS 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 Union Pacific 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.*

5.5 ***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 covered 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 covered 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 covered service. Notice: Prior to or upon withdrawing the employee from covered 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 covered 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 UNION PACIFIC 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 no later than the end of the first business day immediately following the day the employee receives 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, including hostlers, must report by contacting the National Employee Assistance Help Line 800-779-1212 any arrest, citation, or convictions within 48 hours to EAP 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. Reporting must be made to their supervisor who will then direct them to the National Employee Assistance Help Line, 800-779-1212, 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 Union Pacific.

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 Union Pacific 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. The failure to do so may negate that employee's opportunity under this policy for a one-time return to service, if applicable.

6.3 Actual Knowledge of Off-Duty or Pre-Duty Use

- If Union Pacific 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

- Union Pacific 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). However, if this privilege is abused, employees may be referred to EAP and may be subject to disciplinary action.

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 drive 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 UP Policy

- 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 $1,000,000 (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 *Exceptions (49 CFR Part 219.201(b))*

- *No test may be required in the case of a collision between railroad rolling stock and a motor vehicle or other highway conveyance at a rail/highway grade crossing.*
- *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).*

7.1.6 *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 covered 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 covered employee is directly involved in the circumstances of an accident which occurred during their tour of duty (49 CFR Part 219.203(b)(4)(iii), those employees must also be tested.*
- *In a "major accident" all crew members of all trains must be tested.*

7.1.7 *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-covered employees who are fatally injured in a train accident or incident is required.*

7.1.8 *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 covered service and must be deemed disqualified for covered 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 <u>and</u> 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 UP Policy

7.3.1 The DOT requirement for post accident testing does not limit the discretion of Union Pacific 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.

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, will be tested 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 covered 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 covered 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 covered 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 covered 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 UP POLICY ON REASONABLE SUSPICION AND REASONABLE CAUSE

9.1 Union Pacific Reasonable Suspicion Drug and Alcohol Testing

9.1.1 Union Pacific will require reasonable suspicion drug and alcohol testing of all employees not covered under FRA or FMCSA regulations (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.

Union Pacific Reasonable Cause Drug and Alcohol Testing

9.1.3 An accident or incident in which drug and alcohol testing is not mandatory under FRA or FMCSA regulations may require testing under Union Pacific authority. Union Pacific requires reasonable cause drug and alcohol testing of all employees, including Hours of Service (HOS) employees and Commercial Motor Vehicle (CMV) operators, non-agreement, and agreement, when:

- An employee's acts or omissions result in the violation of any safety or operating rule which has the potential to (1) result in an accident and/or personal injury to self or others or (2) actually results in personal injury or significant property damage; or
- Any other narrowly-circumscribed and verifiable individualized case that has been approved by the Safety and the Law Departments (e.g., an indictment for violation of the Controlled Substances Act which Union Pacific investigators verify to be based on reasonably credible evidence).

9.2 Manager's Decision to Test

9.2.1 Determination of influence by alcohol may be made by one trained manager.

9.2.2 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.

9.2.3 Note that for reasonable suspicion drug testing, the second manager may be consulted by telephone.

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 covered service for Union Pacific, the applicant must undergo testing for drugs. No railroad may allow an individual to perform 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-covered service to duties involving covered 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 covered service. (49 CFR Part 219.505)*

10.2.2 *An applicant can decline to be tested and pull their application and no record will be kept, unless the refusal occurs after the collection process has begun. (49 CFR Part 219.501(b))*

10.3 *Background Check (49 CFR Part 40.25)*

10.3.1 *Union Pacific 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 Union Pacific for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this*

written consent, the employee will not be permitted to perform safety-sensitive functions (49 CFR Part 40.25).

10.4 UP Policy

10.4.1 Before the first time applicants perform any service for Union Pacific, they must undergo drug testing, and have a negative result.

10.4.2 Applicants who refuse to take a pre-employment drug test after it has started will not be employed.

10.4.3 Applicants with positive test results will have their application rejected and they will be ineligible to be retested for a period of six months.

10.4.4 Applicants re-applying following a positive pre-employment drug test must present a certificate of rehabilitation from a substance abuse professional.

10.4.5 Applicants that adulterate or provide a substitute sample on a pre-employment test will be banned from reapplying.

10.4.6 Drug and alcohol tests will be given on randomly selected days to all new hire employees within their probationary period.

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)***

11.2 ***Railroad random alcohol and drug testing programs***

11.2.1 ***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)).

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

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

11.3.1 ***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.***

11.3.2 ***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)***

11.4 UP Policy

11.4.1 Union Pacific will randomly test covered employees in compliance with FRA, FMCSA, and FAA requirements. Union Pacific will randomly test other employees using company authority.

12.0 UP POLICY ON FITNESS EVALUATION

12.1 General Notice about Drug and Alcohol Tests

12.1.1 Union Pacific employees subject to periodic, return-to-work, job transfer, or follow-up physical examinations under management prerogative, existing collective bargaining agreements, or DOT requirements, may be

required to participate in a drug and/or alcohol test as part of a physical or mental fitness examination upon general notice from the Union Pacific or specific notice from the examining physician.

12.1.2 This policy serves as general notice that employees will 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 HOS positions, as well as pre-employment testing for HOS 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 will 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" will 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 CMO and the CMO will 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 CMO, 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 Union Pacific will be performed in accordance with the specimen collection and laboratory analysis procedures in 49 CFR Part 40.

13.1.2 Whether drug testing is performed under DOT or Union Pacific authority, the analysis of samples will be performed by laboratories certified by the US Department of Health and Human Services.

13.1.3 Union Pacific reserves the right to add additional testing to its company drug panel, without notice.

13.1.4 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 will be pulled from service and given a form to sign that explains the process they must now 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 Union Pacific's Medical Department, 800-635-7150, within twenty (24) hours. If contact is not made, the medical department will attempt to make contact with the employee. Once contact has been made, the medical department 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 up to and including dismissal, and disqualified from any FRA covered service for a period of nine (9) months.

13.1.5 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.

13.1.6 Union Pacific 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, can be required to participate in alternative testing.

13.2 Alcohol Tests

13.2.1 All alcohol tests required by DOT or Union Pacific 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 the Medical Director or an MRO selected by Union Pacific. 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 the Union Pacific, after making all reasonable efforts, has 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 the Union Pacific 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 UP 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. To obtain negative test results go to Union Pacific's Drug and Alcohol Program's web site (found on UP On-line).

14.6 If the MRO verifies the test result as positive, the MRO will instruct the employee not to report to, or perform any service. The MRO will report the result to the Union Pacific DER for 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 property security, long-term, frozen storage for 365 days. Within this 365-day period the individual, Union Pacific, 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 who will forward the request to the Labratory. (49 CFR Part 219.211(l)).***

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)).*
- *Failure 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 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, behave 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 to by the railroad under a mandatory provision of Federal regulations, must be deemed disqualified from covered 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 UP 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 Union Pacific 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 will be removed from service and be subject to discipline, up to and including dismissal.

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 in order 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 Union Pacific determines there is reason to believe that an employee has violated this drug and alcohol policy, as evidenced by a verified positive drug test result reported by the MRO, or based on a positive alcohol test or observation of pre-duty use or on-duty use or possession or other verifiable reasons (e.g., criminal conviction related to drugs), the employee will immediately be withheld from service, pending disciplinary action.

17.2 Dismissal: 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. Employees dismissed for refusal will not be allowed to take part in the Employee Assistance Program for the purpose of reinstatement.

18.0 VOLUNTARY REFERRAL POLICY (49 CFR Part 219.403)

18.1 ***Provisions***

18.1.1 ***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.***

18.1.2 ***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.***

18.1.3 UP Policy: If the employee is not cooperating with EAP/SAP or not following rehabilitation instructions, that employee will be placed in a medically disqualified status by the Chief Medical Officer (CMO).

18.1.4 ***The railroad treats the referral and subsequent handling, including counseling and treatment, as confidential, subject to the exceptions set forth in EAP policy and procedures.***

18.1.5 ***The certification status of an Engineer, Conductor, or Remote Control Operator (RCO) will not be affected under the voluntary referral policy, provided they cooperate with the rehabilitation program.***

18.1.6 ***The policy of confidentiality is waived (to the extent that the railroad receives official notice from EAP of the substance abuse disorder) and the railroad 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.***

18.1.7 ***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 Union Pacific will give all employees, agreement and non-agreement, one co-worker referral opportunity without exercise of disciplinary action for a violation of UP policy or DOT regulations prohibiting the use of alcohol, drugs, or the misuse of prescription drugs (49 CFR Parts 219.101, 219.102, or 219.103).

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 45 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.***

19.5 Co-Worker Report Summary

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

a) No other rule violation is involved.

b) The alleged violation must come to the attention of Union Pacific 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.

c) If Union Pacific's representative can independently confirm that the employee is in violation, that employee will immediately be removed from service.

d) The employee must elect to waive investigation on the rule charge and must contact EAP within three days of the waiver election.

e) 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 the SAP or EAP before qualifying to return to service.

f) 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

20.0 MANAGER REFERRAL

20.1 Managers have an obligation to consistently observe all employees for signs and symptoms of drug and/or alcohol abuse. Managers are required by Federal Regulations and Union Pacific Drug and Alcohol policy to conduct a reasonable suspicion test, (Federal authority if on-duty covered service, UP authority if non-covered service or off-duty covered service) for drugs and/or alcohol if signs and symptoms are present. Managers have an obligation to help employees who exhibit signs and symptoms of drug and/or alcohol abuse to seek help from EAP, while test results are pending.

20.2 If the results of a test are negative or not immediately available, the manager also has an obligation to help employees who exhibit signs and symptoms of drug and/or alcohol abuse and to ensure the safety of our employees and the public. Therefore, when a manager has credible evidence which supports a finding of impairment or being under the influence, the manager will immediately remove the employee from service and initiate a manager referral for evaluation.

20.3 Without credible evidence of drug or alcohol abuse, but with signs and symptoms of such abuse, the manager has an option to make a referral to the Medical Department for a Fitness for Duty (FFD) or EAP for a drug and alcohol evaluation. The employee will be required to make contact within three (3) business days with EAP or the FFD nurse, as directed.

20.4 When an employee is referred to EAP by a manager for work-related problems, confidentiality regarding personal matters will be maintained. Both EAP and CMO can redirect a referral at any time. If an evaluation from CMO or EAP finds no reason to keep the employee from working, the employing department will be notified and the employee will be returned to service.

20.5 If EAP determines there is an active substance abuse disorder, or if a condition indicating a need for treatment is identified and the employee refuses to participate in the recommended treatment (or refuses to provide information concerning an alternate treatment program designed to help that employee) then, upon advise from EAP, the CMO may medically disqualify that employee. When an employee is referred to EAP under a manager referral, confidentiality will be maintained. If EAP determines there is an active substance abuse disorder and the employee refuses to participate in the recommended treatment upon direction from EAP, the CMO may medically disqualify the employee.

20.6 Employees will not be returned to work until they have met all conditions detailed in the instructions issued by EAP or the employee's manager. Employees may be subject to discipline if they fail to follow any instructions issued as a result of this referral. The instructions may also include a requirement that the employee will be subject to Union Pacific follow-up testing. Employees must meet all conditions and instructions issued by CMO, EAP and/or the employee's manager. Employees may be subject to discipline if they fail to follow any instructions including a requirement that the employee be subject to follow-up testing.

21.0 ONE TIME RETURN TO SERVICE AND TEN-YEAR POLICY

21.1 General

21.1.1 An employee who has been dismissed for a violation of the Union Pacific Drug and Alcohol Policy will be permitted a one-time return to service following successful completion of a rehabilitation program approved by EAP, provided that the employee has had no previous violation of the Union Pacific Drug and Alcohol Policy in the previous ten (10) years and provided further that no other major rule violation is involved.

21.1.2 An employee who has been granted a one-time return to service under this provision and who violates the Union Pacific Drug and Alcohol Policy again within a ten (10) year period will be dismissed permanently.

An employee may petition and receive a Redress Hearing as provided in Public Law 432 **SEC. 409 § 20165. LIMITATIONS ON NON-FEDERAL ALCOHOL AND DRUG TESTING BY RAILROAD CARRIERS,** to review his or her specimen test results that were determined to be in violation of the Drug and Alcohol Policy as a result of a non-Federal authority test. Employees within the probationary period of their applicable CBA agreement are exempted from this section.

21.1.3 Events under the Voluntary Referral Policy and Co-worker Report Policy do not count against this one time return to service agreement and ten (10) year policy. (49 CFR Part 219, Subpart E)

21.2 Terms and Conditions

21.2.1 The terms and conditions of an employee's rehabilitation and education program agreement for reinstatement will contain a twelve month probation period. During this probationary period, any violation by the employee of the terms established for their

reinstatement will result in the employee being returned to dismissed status without the benefit of a hearing, unless a hearing is required by agreement or FRA regulations (49 CFR 219.104) or a Redress Hearing.: To request a redress hearing, petition for a redress hearing pursuant to the provisions of Public Law 110-432 Statute 20165(b) (Federal Rail Safety Improvement Act of 2008) A petition must be submitted in writing within ten (10) calendar days of receipt of a charge letter to: Drug and Alcohol Testing, 1400 Douglas, Stop 1020, Omaha, NE 68179-1020 (via certified mail) or faxed to 402-997-3626.

21.2.2 This probationary period, and the terms thereof, do not preclude Union Pacific from conducting follow-up testing for up to a sixty (60) month period following reinstatement, as detailed in this Policy for covered service employees, where federal testing is involved.

22.0 REINSTATEMENT INSTRUCTIONS

22.1 General

22.1.1 An employee dismissed because of a non-negative test result or a refusal, must have a negative test result for drugs and/or alcohol before being allowed to return to service.

22.1.2 Union Pacific requires follow-up drug and/or alcohol tests after reinstatement for the period, frequency determined by a SAP or EAP. An employee will be eligible for return to service based upon advice that they have successfully completed education, counseling and/or treatment determined to be necessary by EAP or a SAP, including any drug and alcohol testing requirements of their designated personal program, and they have tested negative for drugs and alcohol, on the return-to-duty test.

22.1.3 Reinstatement is to be on a leniency basis with vacation and seniority rights unimpaired, but without pay for time lost.

22.2 Provisions

22.2.1 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 enroll and begin a personal rehabilitation program with EAP/SAP within thirty (30) days after being dismissed following a disciplinary investigation, or within three (3) days of signing a waiver. The employee must enroll by calling the National Employee Assistance hotline, 800-779-1212.
- The employee must become drug and/or alcohol free by successfully completing any education, counseling or treatment determined by EAP/SAP.
- The employee must continue in any further program of counseling, treatment and follow-up determined by EAP/SAP.
- The employee must adhere to all the agreements in their designated personal program with EAP/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 Union Pacific Railroad's Drug and Alcohol Policy for the time and frequency required by the SAP or EAP for up to 60 months from the date of return to service, unless otherwise specified by a SAP. 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 Union Pacific 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 Union Pacific policy.

- The employee must not violate any Union Pacific rule with reference to drugs or alcohol.
- Failure to comply with these instructions may be grounds for immediate disciplinary action.

22.2.2 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.

23.0 FOLLOW-UP TESTING PROGRAM

23.1 *General (49 CFR Parts 40.307, 40.309)*

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

23.1.2 ***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).

23.2 ***Follow-up Testing***

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

23.2.2 ***Locomotive engineers, conductors, and RCOs 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.***

23.2.3 ***All other HOS employees and CMV operators who have a federal violation will be tested at least six (6) times for alcohol or at least six times for drugs or at least six times for both drugs and alcohol as determined by the SAP on an individual basis during year one.***

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

23.3 UP Policy

23.3.1 An employee in the follow-up program is subject to:

- Follow-up testing under this Policy. It applies to all employees and is applied independently of the terms of any "probationary period" that may be established.
- A positive result on a Follow-Up test, or any other drug or alcohol test administered during the

"probationary period" is a violation of the terms of the probation.

- A "directly observed" test will be conducted at least once in years one (1) and two (2), according to the procedures in 49 CFR Part 40.67.
- Follow-up testing for up to 60 months, unless otherwise recommended by a SAP. Employees will be tested at least four (4) times a year in the first two years of follow-up testing and at least once during the third year.
- Follow-up drug and/or alcohol testing will be scheduled on dates chosen by Union Pacific when the employee is on duty. Follow-up tests must be unannounced. Employees will be given no advanced notice of the test.
- Follow-up testing is in addition to any other testing required by regulation or Union Pacific policy.

24.0 DEFINITIONS

24.1 ***As used in this policy:***

24.1.1 ***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).***

24.1.2 ***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***

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

24.1.3 UP Policy

- Drug means any controlled substance as defined by above and substances that are not intended for human consumption.

24.1.4 ***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.***

24.1.5 ***Co-worker means "another employee" of the railroad, including a working supervisor directly associated with a yard or train crew, such as a conductor or yard foreman, but not including any other railroad supervisor, special agent, or manager.***

24.1.6 ***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.***

24.1.7 UP Policy

- "Major rule violation" means any rule infraction that is specified as a Level 4 or higher under applicable discipline policy or any rule infraction that results in dismissal.

25.0 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 Union Pacific. Union Pacific reserves the right to interpret or change this policy at any time.