



SOUTHERN REGION

SUBSTANCE AND
ALCOHOL
FREE
ENVIRONMENT

DRUG AND ALCOHOL RULES AND REGULATIONS

POLICY HANDBOOK

April 2015



www.cn.ca

Southern Region

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CN Southern Region Employees:

I would like to introduce an updated version of our comprehensive employee handbook on CN's Substance and Alcohol Free Environment (SAFE) policy, which includes federal and company rules and regulations. Included is information on avenues for assistance and / or rehabilitation through volunteer and co-worker referral, and our Employee Assistance Program.

Safety is paramount in everything we do at CN and there cannot be anything short of a zero tolerance attitude. Employees must never be at work under the influence of illicit drugs or of alcohol, as described in this policy. As co-workers and friends, we all must be alert to substance use and feel confident in confronting it through procedures like co-worker referral. This handbook is intended to provide you with information and tools in dealing with substance use in the workplace.

The interests of our families, friends, employees, customers and the public cannot be compromised. I urge you to familiarize yourself with this handbook and be proactive in your efforts to make our workplace a substance abuse free environment.

Sincerely,



John Orr
Senior Vice President

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Section 1. Objective

This policy integrates company and U.S. federal requirements in a clear and understandable format. Every employee is responsible for reviewing the policy and understanding its requirements.

In addition to company policy (Non-DOT), many employees are required to participate in alcohol and drug testing programs mandated by the US DOT regulations. Federal Railroad Administration (FRA) regulations, Part 219 and Part 240, dictate rules that govern employees performing safety sensitive railroad operations. Federal Motor Carrier Safety Administration (FMCSA) regulations, Part 382, dictate rules that govern employees operating commercial motor vehicles (CMVs) that require a Commercial Driver's License (CDL). All US DOT alcohol and drug testing must also comply with the rules governing testing procedures in 49 CFR Part 40.

Section 2. Definitions

These definitions are consistent with 49 CFR Part 40.

49 CFR Part 40: Federal regulations under Title 49: Transportation Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs (DOT).

49 CFR Part 219: Federal regulations under Title 49: Transportation Part 219 – Control of Alcohol and Drug Use (FRA).

49 CFR Part 240: Federal regulations under Title 49: Transportation Part 240 – Qualification and Certification of Locomotive Engineers.

49 CFR Part 382: Federal regulations under Title 49: Transportation Part 382 – Controlled Substances and Alcohol Use and Testing (FMCSA).

Adulterated Specimen: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol. This includes, but is not limited to beer, wine, hard liquor and medications containing alcohol.

Alcohol use: The drinking or ingesting of any beverage, liquid, mixture or preparation, (including any medication), containing alcohol.

CN: For purposes of this policy, CN is defined as the U.S. operating railroad subsidiaries of Canadian National Railway Company.

Commercial Motor Vehicle (CMV): Defines a vehicle that weighs 26,001 pounds or more; a gross combination vehicle rating of 26,001 pounds or more; and/or the towed vehicle exceeds 10,000 pounds; a vehicle designed to transport sixteen passengers including the driver; or the vehicle is placarded to transport hazardous materials. (49 CFR 382.107)

Commingled Service: Total on-duty time performed by an employee during a tour of duty consisting of both covered hours-of-service and non-covered service. When an employee performs service covered by more than one restrictive provision, the more restrictive provision determines the total lawful on-duty time. This is known as the principle of “commingled service”.

Consortium/Third Party Administrator: A service agent that provides and coordinates the provisions of a variety of drug and alcohol testing services to employees.

Creatinine: An indicator of metabolic function. It is waste product of muscle tissue produced at a constant rate by the kidneys and excreted in the urine.

Designated Employer Representative (DER): A company employee authorized by the company to take immediate action to remove employees from safety sensitive duties, or cause employees to be removed from these covered duties, and to make decisions in the testing and evaluation processes. The DER also receives test results and other communications for the company, consistent with the requirements of the regulations.

Dilute Negative Specimen: A negative urine test result with creatinine and/or specific gravity values lower than expected for human urine.

DOT Test: A drug and/or alcohol test accomplished under the authority of the Department of Transportation.

Drugs: DOT – Controlled substances tested for under DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates (5 panel). Testing under FRA Sub Part C also includes barbiturates and benzodiazepines.

CN – Tests for same drugs identified under DOT guidelines (5 panel).

Controlled substance has the meaning assigned by 21 U.S.C. 802, and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR Parts 1301-1316).

Employee: All CN employees working in the United States.

Employee Assistance Program (EAP): A company-sponsored program providing immediate professional assistance for personal and emotional problems. These services are provided as a company benefit and include assistance with marital, family, work-related conflicts, and alcohol or drug abuse. The program is confidential, and is provided at no cost to the employee. Supervisors may refer employees to the EAP for help with a job-related issue.

FMCSA: Federal Motor Carrier Safety Administration.

FRA: Federal Railroad Administration.

Medical Review Officer (MRO): A person who is a licensed physician and board certified as a Medical Review Officer responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Non-DOT Test: A drug and/or alcohol test accomplished under the CN's authority.

Non-Negative: A verified Positive test result for controlled substance metabolites, a verified Adulterated specimen, or a verified Substituted sample as reported by a testing laboratory.

POCT: Point of contact testing – Non-DOT urine drug screen. The test gives an instant result.

Possess: To have on one's person or in one's personal effects or under one's control. As used in this policy, possession does not include control by virtue of presence in the employee's personal residence or other similar location off railroad property.

Private Healthcare Provider: A person trained and licensed to practice medicine.

RCO: Remote Control Operator – An employee who may operate an engine with or without cars by means of a remote control transmitter.

Substance Abuse Professional (SAP): A person who evaluates employees who have violated a DOT alcohol and drug regulation, and makes recommendations concerning education, treatment, follow-up testing and aftercare.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Section 3. Policy on the Use of Alcohol and Drugs.

3.1 Substance and Alcohol Free Environment (S.A.F.E.) Policy

CN

SUBSTANCE AND ALCOHOL FREE ENVIRONMENT (S.A.F.E.)

POLICY AND GUIDELINES

A. PREFACE

CN is committed to providing a safe and productive work environment for our employees. The company has established programs to provide high standards of employee health and safety. It is also the company's policy to maintain an alcohol and drug-free workplace. In accordance with this commitment, the company adopts the following substance abuse policy and guidelines, and all employees in the U.S. must abide by the terms and conditions herein:

B. POLICY

1. Employees subject to duty are prohibited from using intoxicants, alcohol, narcotics, sedatives, stimulants, hallucinogens, or a derivative or combination of any of these, or any controlled substance or mood altering substance, or any illegal drug, or drug paraphernalia. In addition, it is prohibited for an employee to use or possess any of these while on duty, while on company property, or while occupying facilities paid for or furnished by the company. The presence of any level of alcohol in the breath (.02 or above) is a violation of this rule.

It is prohibited for an employee to possess, sell, or use any illegal drug or controlled substance while on or off duty. Employees must not report for duty under the influence of any medication, including those prescribed by a doctor, that adversely alters alertness, coordination, reaction, response, or safe performance of work. Further, employees shall not use such medication while on duty.

Employees who are assigned to work subject to the Hours of Service Act during a tour of duty – whether they have previously performed, are currently performing, or may be called to perform such service – and any employees who regularly perform such service must consent to breath, and urine testing and the release of information required in connection with such testing, under the circumstances specified in Federal Regulations (49 CFR Part 219). Employee positions assigned to work mandated by the rules of the Federal Motor Carrier Safety Administration, must consent to breath and urine testing required under those rules (49 CFR Part 382). When there is evidence of violation of these rules, the employee will be immediately removed from service.

2. The medical use of controlled substances prescribed by a physician or dentist is not prohibited under this policy; however, an employee must obtain from his/her physician or dentist information concerning possible side effects of any prescribed medication that might have an adverse effect on judgment, coordination, alertness, or which in any other way might adversely affect his/her ability to perform his/her responsibilities. If such possibility exists, the employee is to notify his/her immediate supervisor of such use and possible effect prior to being subject to duty.

The supervisor will inform the Medical Services Department, which will determine if the employee can safely perform his/her duties.

3. Any employee who is charged with a violation of the law related to drugs or alcohol must report this information to his/her supervisor within five days after such charge. Conviction of any employee for the sale, dispensing or trafficking in illegal drugs will result in discipline up to and including dismissal.
4. Employees who are experiencing a substance (including alcohol) use disorder are encouraged to contact the Employee Assistance Program (EAP) for assessment and, if appropriate, referral for treatment. Voluntary contacts with the EAP in the absence of disciplinary action will be kept confidential. Employees referred to EAP because of job performance problems will be afforded the same services; however, the employee's supervisor will be advised by the EAP Counselor of the employee's participation, or lack thereof, in the program. All other information will be kept confidential in conformity with the EAP policy.

C. DRUG AND ALCOHOL TESTING

1. Applicants who are selected for prospective employment will be required to take a pre-employment drug-screen. Failure to provide a negative sample will result in immediate disapproval of the application. Additionally, during the employee's probationary period, the employee will be required to undergo drug and/or breath alcohol test(s) on an unannounced basis. Probationary period employees who produce a positive drug and/or alcohol test will be terminated from employment with the company.
2. Employees who test positive for alcohol or controlled substances when undergoing testing for random, for cause, reasonable suspicion, post accident, return-to-duty, or follow-up testing (under EAP guidelines) will be subject to discipline up to and including dismissal.
3. Employees who test positive for alcohol and/or controlled substances when undergoing any company required examination or test will be subject to discipline up to and including dismissal.
4. Employees who have any drug test result which is confirmed adulterated or substituted will be subject to discipline up to and including dismissal.
5. Employees who refuse to provide a sample for required alcohol or controlled substance testing will be subject to discipline up to and including dismissal.

D. GUIDELINES FOR DISCIPLINE OF SUBSTANCE ABUSE VIOLATORS

The following criteria should be followed in the assessment of discipline when an employee has violated the company's substance abuse policy.

1. Any employee who violates this policy will be subject to discipline. The discipline may be conditioned on the employee's full compliance with all instructions issued to him by any Company official and the Employee Assistance counselor. Any time an employee fails to comply with all instructions issued to the employee in connection with his/her violation, his/her discipline converts to dismissal.
2. Discipline under this provision shall be no less than 45 days from the date the employee is notified of the assessed discipline. Release to return to work by the Employee Assistance Counselor must be obtained but does not automatically end the discipline. Consideration of the events surrounding the incident and the employee's personal record will be considered in determining the actual length of the discipline up to and including dismissal.
3. Employees will be dismissed for any violation of this policy involving distribution or sale of a controlled substance.
4. Employees will be dismissed for any confirmed adulterated/substituted test.
5. Employees will be dismissed for refusal to undergo a required alcohol or drug test.
6. Employees will be dismissed for a repeated violation of this policy.
7. The application of this policy shall comport with any relevant labor agreement rules covering formal investigations or waiving thereof.

E. COMPLIANCE WITH CONDITIONS OF RETURN TO ACTIVE SERVICE

Employees who are reinstated to active service following a violation of this policy will be required, as a condition of reinstatement, to meet the following additional requirements. Failure or refusal to meet these conditions will result in dismissal:

1. In case of a DOT violation, an observed DOT return to duty test is required.
2. Execute an agreement to submit to urinalysis and/or breath analyzer testing on an unannounced basis at least six (6) times during the first twelve (12) months following reinstatement for up to five (5) years. This agreement will be determined by the SAP counselor in the cases of a DOT violation and by the DER and Medical Services department in the case of a company (Non-DOT) violation.
3. Remain substance-free for the remainder of his/her career. (This provision does not supersede a contractual agreement made through union negotiation).

F. SUBSTANCE ABUSE DISORDERS AS A HEALTH PROBLEM

These guidelines recognize substance abuse as a major health problem that should be addressed by offers of assistance to the employee experiencing a substance abuse disorder. At the same time, the employee has an obligation to accept responsibility for his/her actions and for cooperating in a plan to address his/her substance abuse and continue in a program of recovery. Above all, the safety of railroad operations, or other employees and the communities through which we operate must be paramount.

3.2 Prohibitions

While on duty or while operating work equipment, employees must not:

- use or possess alcohol;
- use or possess controlled substances (except as described in 49 CFR 219.103 and section 3.4 below) or illegally obtained drugs;
- possess drug paraphernalia;
- possess drug test adulterants or specimen substitution;
- report for duty or remain on duty or on company property when his/her ability to work safely is impaired by alcohol, controlled substances or illegally obtained drugs;
- report for or remain on duty or on property with a breath alcohol concentration greater than or equal to 0.02%;
- report for or remain on duty or on property while exhibiting symptoms of alcohol or illicit or illegally obtained drugs.

3.3 Additional Prohibitions for Employees Covered by the Hours of Service Act and Commercial Motor Vehicle Drivers

- Use of alcohol within four (4) hours of reporting for covered service or after receiving notice to report for covered service (whichever time is less) is prohibited (see 49 CFR 219.101, 382.205, 382.207).

3.4 Prescribed and Over the Counter Medications

Hours of Service Employees (see 49 CFR 219.103) use of controlled substances at any time, whether on or off duty, is prohibited, except where both:

1. such use is prescribed by a private health provider who has been informed of the employee's assigned duties and has made a determination that the prescribed dosage is consistent with the employee's safe performance of his or her assigned duties; and
2. such controlled substances are used at the prescribed dosage.

All employees:

3. Employees taking either prescribed or over the counter medications must be knowledgeable of potential adverse effects these medications have on judgment, alertness, coordination and reaction/response time. The employee must notify their private health care provider(s) of the full scope of assigned duties to ensure that the use of the prescription at prescribed dosage level is consistent with the safe performance of his/her duties. In the event the employee is being treated by more than one medical practitioner, at least one treating medical practitioner must be informed of all medications authorized or prescribed and has determined that use of the medications is consistent with the safe performance of the employee's duties.

An employee taking prescription medication that is not in the employee's name or is not taken at the prescribed dosage may be in violation of this policy.

An employee is responsible for reporting any adverse effects of prescription medication which have an adverse effect on the employee's ability to work safely.

3.5 Remove from Service/Discipline

The CN reserves the right to remove from service and possibly discipline employees without the administration of drug and/or alcohol tests based on documented observations made by railroad officers trained in the "signs and symptoms" of drug and alcohol use, subject to the limitations or mandates imposed by applicable federal statutes.

Section 4. Types of Drug and Alcohol Testing

4.1	<u>Testing Categories</u>	<u>Authority</u>
	Random	FRA, FMCSA
	Post Accident	FRA, FMCSA
	Reasonable Suspicion	FRA, FMCSA, CN
	Reasonable Cause	CN
	Return to Duty	FRA, FMCSA, CN
	Follow-Up	FRA, FMCSA, CN
	Pre-Employment	FRA, FMCSA, CN

4.2 Random Testing

Random selections are generated by an outside contractor using a computer program. Employees in the random pools are hours of service employees and CDL holders. Employees are tested at any time during their tour of duty. An employee may be excused from testing only in a case of a **documented** medical or family emergency.

4.3 Post Accident Testing – FRA Accident: Contact CN DER (Medical Services) immediately: See Flow chart in Appendix 1.

FRA regulations **REQUIRE** that a FRA Post Accident Toxicology Box be used to collect blood and urine specimens for all post accident testing meeting the below criteria. Specimens **MUST** be collected at the nearest clinic or hospital using the post accident tox box.

Testing is conducted after any event that involves one or more of the listed circumstances:

- A. Major Train Accident: Any train accident that meets the FRA Damage Threshold criteria applicable at the time of the accident and results in one or more of the following:
 - 1. A fatality
 - 2. A release of hazardous materials with an evacuation or a reportable injury, or
 - 3. Damage to railroad property totaling more than \$1,000,000.

- B. Impact Accident: An impact accident meeting the FRA Damage Threshold criteria applicable at the time of the accident and resulting in either:
 - 1. A reportable injury, or
 - 2. Damage to railroad property totaling \$150,000 or more.

- C. Fatal Train Incident: A train accident involving a fatality to an on-duty railroad employee.

- D. Passenger Train Accident: Reportable injury to any passenger or crew member in a passenger train accident, which meets the FRA Damage Threshold criteria applicable at the time of the accident.

Exceptions: No FRA Post-Accident 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, or accidents entirely attributable to natural causes, trespassing, or vandalism.

4.4 Post Accident Testing – FMCSA Accident

Federal statute requires DOT drug screens and breath alcohol testing. CDL holders operating commercial motor vehicles must be tested whenever:

- The accident results in a fatality.
- The driver receives a citation and the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
- The driver receives a citation and one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

4.5 Reasonable Suspicion Testing

All CN employees are subject to reasonable suspicion testing. This may include a drug screen and/or breath alcohol test.

- A. A urine drug test must be done when **two (2)** supervisors (at least one of whom has received awareness training) have reason to suspect that an employee is under the influence of, or impaired by a controlled substance. This suspicion must be based on a specific and describable observation of the employee's appearance, behavior, speech or body odors. This may include indications of the chronic and withdrawal effects of drugs.
- B. With respect to a breath alcohol test, the required observations must be made by **one (1) trained** supervisor. The test must not be conducted by the supervisor who makes the observation.
- C. If suspicion is confirmed by these observations, a test must be conducted. Covered service employees must be tested under DOT authority. All other employees must be tested using company authority.
- D. Employees tested for drugs for reasonable suspicion will be removed from service pending receipt of the results.

4.6 Reasonable Cause Testing

CN employees may be subject to testing under company authority at any time while on duty. Testing is performed using company POCT forms (Non-DOT) and may include drug and/or breath alcohol tests as deemed appropriate by management. CN reasonable cause testing may be performed when:

- An employee is involved in an accident or incident in which evidence can be documented that the employee's performance may have caused or contributed to the incident or its severity, and the employee appears to have neglected to follow an established safety rule or procedure.
- A. Non FRA, Non FMCSA Accident/Incident – The employee has been involved in a Non **FRA reportable** accident or incident and the supervisory employee of the railroad has a reasonable belief, based on specific, articulable facts that the employee's acts or omissions contributed to the occurrence or severity of the accident/incident.
- B. Rule Violations – The employee is directly involved in one of the following:
1. Noncompliance with a train order, track warrant, timetable, signal indication, special instruction or other directive with respect to movement of a train that involves:
 - a. Occupancy of a block or other segment of track without authority
 - b. Failure to clear a track to permit opposing or following movement to pass
 - c. Crossing a railroad crossing at grade without authority
 - d. Passing an absolute restrictive signal without stopping and/or without authority
 2. Failing to provide flag protection when required.
 3. Operation of a train at a speed that exceeds the maximum authorized speed by at least 10 MPH, or by 50% of such maximum authorized speed, whichever is less.
 4. Alignment of a switch in violation of a railroad rule, failure to align a switch as required for movement, operation of a switch under a train or unauthorized running through a switch.
 5. Failure to apply or stop short of derail as required.
 6. Failure to secure a hand brake or failure to secure sufficient hand brakes, as required.
 7. Entering a crossover before both switches are aligned.
 8. Issuance of a train order or establishment of a route that fails to provide proper protection for a train.

- C. Urine and/or breath samples must be taken within two (2) hours of determining the need to test and may be done on site using a collection agency. If unable to test within two (2) hours, the railroad representative must document the delay up to eight (8) hours, after which, attempts to test must cease. Samples must be taken from certain Hours of Service employees under any of the circumstances listed below:
 - 1. An employee who has failed to remain available for testing, by leaving the area without authority, may be recalled and can be tested.
 - 2. In the case of an employee transported to a collection site where a collector is present and the request for testing has been made within the eight (8) hour period, the eight (8) hour requirement is satisfied.
- D. The results of drug testing done using a Point of Contact Test (POCT) device give immediate results of either NEGATIVE or NON NEGATIVE.
 - 1. In case of a NEGATIVE POCT result, the collector shows the result to the employee and a written result is given to the supervisor. The employee is not restricted from duty due to the drug and alcohol test and no further drug testing results are provided.
 - 2. In case of a NON NEGATIVE POCT result, the collector shows the result to the employee and a written result is given to the supervisor. The urine sample is sent to a laboratory for further analysis and the employee is held from service until a confirmation result is provided by the laboratory to the DER who in turn will communicate the drug test result to the supervisor.

4.7 Return to Duty Testing

Employees must pass a drug screen and/or breath alcohol test prior to returning to service after any violation of this policy.

- A. The employee must successfully complete the EAP recommendations when returning to service under CN authority.
- B. The employee must successfully complete a SAP recommendation when returning to service under federal authority (FRA or FMCSA).
- C. The employee will be required to have a direct observed collection if the employee is returning to work from a DOT positive test or DOT refusal to test.

4.8 Follow-Up Testing

Employees permitted to return to work following a violation of this policy will be required to participate in follow-up testing as determined appropriate by an EAP or SAP counselor when returning to work. A minimum of six (6) unannounced tests will be conducted during the first year following the return to service. Additional follow-up testing may be specified by the EAP or SAP for a maximum of five (5) years. The employee will be required to have direct observed collections if the employee returned from a DOT positive or DOT refusal to test.

4.9 Pre-Employment Testing

All CN new hires must pass a drug screen prior to employment with CN. If any pre-employment drug test is deemed to be negative-dilute by the Medical Review Officer (MRO), there will be an automatic recollection. These collections will not be collected under direct observation unless there is another basis to do so as directed by the MRO. New hires who test positive for controlled substances, or who adulterate, substitute or otherwise tamper with their urine samples, will be denied employment.

A. Subject to testing

1. New hires
2. Transfers into covered service from positions not performing hours of service functions.
3. Transfers to positions requiring a first time CDL physical.

B. 49 CFR Part 40.25

CN requires first-time candidates for employment in safety-sensitive duties who were previously employed by DOT employers, to provide drug and alcohol testing information from two (2) years prior to the date of the candidate's application. This information is also required of current CN employees who transfer into safety-sensitive duties from non Hours of Service positions and positions requiring a Commercial Driver's License if they have worked for CN less than the two (2) year requirement. CN will release information regarding an employee's drug and alcohol tests to subsequent employers when specific written consent from an employee authorizing the release is received.

C. If the employee had a positive test, refusal to test or other violation of DOT agency alcohol and drug regulations, the employee will not be permitted to perform safety-sensitive functions until the employee documents successful completion of the return to duty process including follow-up test information.

4.9.1 Employees who test positive for drugs or alcohol will be denied a requested craft transfer, and be subject to discipline for violation of CN's alcohol and drug policy.

4.9.2 CN will provide individuals who violate this policy with a contact number for referrals to an EAP or SAP.

Section 5. Alcohol and Drug Testing Procedures

5.1 At least one (1) CN supervisor must oversee testing activities related to:

- Random drug testing
(In the case of Random Testing, a CN supervisor, in the rare instance that they cannot be present, must be readily available by phone or pager, should questions or problems arise.)
- Post-Accident Testing for FRA and FMCSA
(Note: For FRA Post-Accident Testing, the supervisor must NOT have been directly involved in the incident.)
- CN Reasonable Cause Testing

5.2 At least one (1) CN supervisor, trained in recognition of signs and symptoms related to alcohol and drug abuse must make the determination to perform **breath-alcohol testing** related to:

- FRA, FMCSA or Reasonable Suspicion Testing

5.3 At least two (2) CN supervisors, one (1) of whom is trained in recognition of signs and symptoms related to alcohol and drug abuse, must make the determination to perform **drug testing** related to:

- FRA, FMCSA or Reasonable Suspicion Testing

5.4 The Medical Services Department will oversee testing activities related to:

- Return to Work Testing
- Follow-Up Testing
- Pre-Employment Testing
- Transfers to hours of service and CDL positions

5.5 All breath-alcohol and urine collections will be performed by qualified technicians or collectors, certified to be proficient in urine and breath-alcohol specimen collection, as specified in 49 CFR Part 40.

5.6 All FRA and FMCSA breath-alcohol and urine collections will be performed according to procedures specified in 49 CFR Part 40.

5.7 Urine and breath-alcohol collections will be performed in a location and manner that provide reasonable privacy for the employee being tested.

5.8 CN supervisors participating in testing activities must respect the confidentiality of test procedures and results they may obtain during the course of testing.

5.9 Recommended Procedures for Employees Providing Urine Samples

1. The employee must present a photo identification to collection official. If no photo ID is available, a CN supervisor can identify employee. CN authorized testing requires employees to provide their social security number or employee identification number for test tracking purposes by the CN Medical Services Department.
2. The employee will be directed to remove outer clothing (e.g. coverall, jacket, coat, hat) that could be used to conceal items or substances that could be used to tamper with a specimen.
3. The employee will be directed to empty his/her pockets and display the items in them to ensure no items present could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen or conceal an adulterant, items can be placed back in the pockets. Items include keys, wallets, money or jewelry.

Items to be secured by the collector before specimen collections include eye drops, inhalers, medications, cosmetic make-up, cell phones, pagers or any items that could be used to tamper a specimen. These items will be placed in an envelope and the envelope sealed until specimen collection process is completed, then returned to the donor.

4. The employee must wash and dry hands prior to providing a specimen.
5. The employee will be directed by the collector to take the specimen collection container, go into the restroom and make an attempt to void. After voiding, give specimen to collection official.

Federal regulations require that the collection process must start and if you do not provide a urine specimen or demonstrate the inability to provide a urine specimen, the process is stopped and the test handled as a refusal.

6. The employee should keep the specimen in view at all times prior to it being sealed and labeled by the collection official.
7. In case of a Point of Collection (non-DOT) Test, the collector will show the employee the indication on the POCT device of the test result. In case of a non-negative test, the urine sample is sent to the laboratory for further testing as described below.
8. Where the urine sample is sent to the laboratory, the employee should watch the collection official seal the specimen by placing bottle custody seal over the bottle cap and down the sides.
 - 8.1 The employee and collection official should complete the information required on bottle custody seal. This certifies that the specimen is the employee's.

- 8.2 The employee should read and sign CHAIN OF CUSTODY FORM certifying that the specimen identified as having been collected from you is in fact your specimen.
- 8.3 The employee may record on the backside of the copy of the CHAIN OF CUSTODY FORM medications taken or administered in the past 30 days whether or not by prescription.
- 8.4 The employee should secure a copy of the completed CHAIN OF CUSTODY FORM that certifies proper completion of the collection.

5.10 Recommended Procedures for Employee Providing a Breath Alcohol Sample

1. The employee must present photo identification to collection official. If no photo ID is available, a CN supervisor can identify employee. CN authorized testing requires employees to provide their social security number or employee identification number for test tracking purposes by the CN Medical Services Department.
2. The collector will instruct the employee to complete Step 2 on the breath alcohol form and sign the certification. If the employee refuses to sign this certification, the collector will document this refusal on the "Remarks" line of the breath test form and immediately notify the DER. This is a refusal to test.
3. The collector will then instruct the employee to blow into the Evidential Breath Testing (EBT) mouthpiece for approximately 6 seconds or until the EBT indicates that a successful test has been recorded.
4. If the test is **negative (less than 0.02)**, the test is complete.
5. If the test is **positive (0.02 or greater)**, the collector will instruct the employee to wait 15 to 20 minutes for a confirmation test. During this time period the employee should not smoke, eat, drink fluids, belch, or put anything in his/her mouth.
6. After the waiting period the collector will again instruct the employee to blow into the EBT (using a different mouthpiece) for approximately 6 seconds or until the EBT indicates that a successful test has been recorded.
7. The employee will then be instructed by the collector to sign and date Step Four (4) of the Breath Alcohol Testing Form.
8. The employee should secure a copy of the completed Breath Alcohol Testing Form that certifies proper completion of the collection.

Section 6. Handling and Interpretation of Test Results

- 6.1** CN Medical Services Department receives all alcohol and drug test results
- 6.2** Positive breath alcohol test results will be communicated to the DER or his/her designee and the employee by the breath alcohol technician immediately after a test is completed.
- 6.3** Any employee whose breath alcohol tests indicate a level greater than or equal to 0.02% (positive test) will be considered in violation of CN policy. Breath alcohol concentrations greater than or equal to 0.04% are also in violation of federal statutes for safety-sensitive employees, provided federal authority forms are used. (FRA also requires that the employee must be removed from covered service until at least the next duty period or eight hours (whichever is more) if their confirmed alcohol level is 0.02% to 0.39%.) This is not a violation of FRA prohibitions; however, any alcohol result greater than or equal to 0.02% is a violation of CN Policy.
- 6.4 All testing done under FRA or FMCSA**
 - 6.4.1** All positive, adulterated, or substituted (non-negative) drug test results are reported by the testing laboratory directly to the CN Medical Review Officer (MRO). After the non-negative test result is received, the MRO will discuss the findings directly with the employee and determine whether any factors exist that could affect test validity, or if there is a valid medical reason for the non-negative test result. After non-negative test results are verified, the MRO will then notify CN. The MRO will verify a non-negative test result if unable to contact the employee within ten (10) days of receiving the test result.
 - 6.4.2** When the MRO informs CN a negative test was dilute, the employee will be required to take another test immediately. Such urine specimens will not be collected under direct observation, unless there is another basis for use of direct observation. Pre-employment is the only testing categories for which recollections for a dilute negative urine specimen apply. When a retest is required, an employee will be provided the minimum possible advance notice. Recollection testing will be conducted on property when practical. When an employee is directed to take another test and the employee declines to do so, the employee has refused the test for purpose of this part and DOT agency regulations, if applicable.
 - 6.4.3** After review by the MRO, drug test results may be shared with CN supervisors, legal, claims, human resources, EAP representatives and labor relations personnel as necessary to facilitate discipline, assessment, treatment, return-to-work and follow-up processes.

- 6.5** The results of drug testing done using a Point of Contact Test (POCT) device give immediate results of either NEGATIVE or NON NEGATIVE.
1. In case of a NEGATIVE POCT result, the collector shows the result to the employee and a written result is given to the supervisor. The employee is not restricted from duty due to the drug and alcohol test and no further drug testing results are provided.
 2. In case of a NON NEGATIVE POCT result, the collector shows the result to the employee and a written result is given to the supervisor. The urine sample is sent to a laboratory for further analysis and the employee is held from service until a confirmation result is provide by the laboratory to the DER who in turn will communicate the drug test result to the supervisor. The test from the laboratory are handled as described in section 6.4
- 6.6** Employees who wish CN to release drug and alcohol testing information to their union representative, attorney, or other third party must submit a signed request to the Medical Services Department.
- 6.7** Any employee whose urine contains levels of controlled substances exceeding the current federal thresholds (positive test) will be considered in violation of CN policy.
- 6.8** Employees may request a test of the split specimen to challenge the laboratory findings for verified positive drug tests, or verified adulterated and substituted test results, provided the request is made in writing within 72 hours from the time and date the employee is notified of the test results by the MRO. The request must be made to the MRO by the employee.
- The employee will remain out of service pending results of the split specimen test.
 - If the split specimen test is negative, the entire test is considered cancelled (no violation).
 - After the MRO has verified the original test result and the split specimen result, no additional test results will be considered.
- 6.9** No retesting, additional testing or alternate testing, such as blood alcohol testing, is offered for breath alcohol tests. The results of a properly conducted breath alcohol test are considered final and valid.

Section 7. Guidelines for Alcohol and Drug Violations

- 7.1** Following an employee's first positive drug or alcohol test, he/she will be removed from service pending evaluation by a SAP and subject to the guidelines set forth in this policy.
- 7.2** The DER or his/her designee will remove the employee from service for verified positive test results for controlled substances and verified adulterated or substituted specimens.
- Removal from service will be effective immediately following the MRO verification of the positive test result with the employee.
 - The Medical Services Department will contact the employee's supervisor by phone promptly for the employee's removal from service, and for scheduling the appropriate disciplinary action.
 - The employee, the supervisor and the EAP Manager will be notified in writing of the employee's positive results.
- 7.3** A positive result of a breath alcohol test is determined at the time of the test. The DER or his/her designee will remove the employee from service immediately and arrange transportation to the employee's home or tie-up point.
- 7.4** Employees refusing to participate in any federal or CN drug and/or alcohol test will be removed from service immediately and disqualified from service for a period of at least nine (9) months (FRA mandatory for Federal refusals), and subject to dismissal from service with CN. A verified adulterated or substituted specimen is considered a refusal to test.
- 7.5** All alcohol and drug violations are considered serious. Drug and alcohol violations will be considered with prior serious violations for assessing appropriate discipline.
- 7.6** **Waivers.** Available for first time drug and alcohol violations only. Upon written notification of the investigation, the employee will also be offered, in writing, a waiver of the formal investigation required under collective bargaining agreements. The employee may exercise the waiver at any time prior to the investigation date specified in the written notification. When the employee elects to complete and sign the waiver, the employee is admitting to the violation. The violation will be recorded in the employee's personal record.
- 7.7** **Special Requirements for Locomotive Engineers and RCO's.** FRA specifies additional restrictions and procedures regarding alcohol and drug use for locomotive engineers and RCO's in 49 CFR 240.119. These restrictions include the following:
- No person with an active substance abuse problem may hold an engineer/RCO certification. An engineer/RCO evaluated by a Substance Abuse Professional and found to have an active substance abuse problem will be ineligible to hold a certificate during evaluation and any required primary treatment. This restriction applies to voluntary referral cases as well.

- No engineer/RCO can return to work following a drug and/or alcohol violation, including co-worker referrals, until the evaluation and return-to-work procedures specified in Section 8 of this policy are successfully completed.
- After a single Federal breath alcohol test showing 0.04% or greater, an engineer/RCO is ineligible to hold a certificate for nine (9) months. If the violation qualifies for handling exclusively under the co-worker report procedures specified in Section 10 of this policy, the nine-month decertification period is not applicable.
- Following the second Federal violation of the use of controlled substances on or off duty, an engineer/RCO is ineligible to hold a certificate for two (2) years. More than two such violations will render an engineer/RCO ineligible to hold a certificate for five (5) years. An engineer/RCO whose certification is suspended due to an alcohol violation will be notified in writing of the suspension and the engineer/RCO's right to a hearing, as specified in 49 CFR 240.307.

Section 8. Employee Assistance Program and Return to Service

- 8.1** The Employee Assistance Program provides evaluation, counseling and support services to employee.
- 8.2** All employees having a first time violation of this policy will be referred to an EAP Manager, either by the employee's supervisor or the Medical Services Department.
- 8.3** Upon removal from service, the employee must contact the EAP Manager within five (5) days to schedule an evaluation. Otherwise, the employee is subject to immediate additional discipline for failure to follow instructions.
- 8.4** The EAP Manager will provide the employee with Substance Abuse Professional (SAP) contact information. Employee must schedule and complete an initial, face-to-face evaluation by a SAP within ten (10) days of receiving this information from the EAP Manager. Employee will pay expenses such as travel and SAP fees not covered by the employee's insurance plans. Failure to complete the initial face-to-face SAP evaluation may subject the employee to dismissal for failure to follow instructions.
- 8.5** If the SAP determines the employee is not affected by an identifiable and treatable mental or physical disorder, the employee, upon recommendation from the EAP Manager, and passing a return-to-work drug/alcohol test, may be returned to service after a minimum of 45 days subject to the limitations specified in Section 7 of this policy.
- 8.6** Employees will be considered suspended during this time unless otherwise assessed discipline as the result of an investigation outcome.
- 8.7** Employees may be required by the SAP and/or the EAP Manager to participate in education and treatment programs before returning to work and during the Follow-up Testing period.
- 8.8** After the employee has completed treatment, the SAP must evaluate the employee in person and establish a follow-up drug and/or alcohol testing regimen to be implemented upon the employee's return to work. Follow-up Testing will include a minimum of six (6) tests within the first twelve (12) months following the employee's return to service. Follow-up Testing for locomotive engineers/RCO's must include at least six (6) alcohol tests and six (6) drug tests within the first twelve (12) months. Additional Follow-up Testing may be specified by the SAP for a maximum of five (5) years following the employee's return to service. The Substance Abuse Professional may terminate the Follow-up Testing at any time after the initial tests required during the first twelve (12) months have been administered.
- 8.9** When the return-to-work test is negative, the employee may return to work with the approval of his supervisor, the EAP Manager, and the Medical Services Department, subject to the limitations specified in this policy.
- 8.10** If a return-to-work or follow-up test is positive, the employee will be considered in violation of CN alcohol and drug policy.

Section 9. Voluntary Employee Assistance Program Enrollment

- 9.1** Employees with alcohol and drug dependency problems are encouraged to take the opportunity to obtain counseling or treatment before these problems manifest themselves in violations of this policy. Employees may elect to voluntarily enroll in CN's Employee Assistance Program without being subject to discipline. Employees are not limited regarding the number of times they can request voluntary enrollment.

An employee may seek assistance by initiating direct contact with an EAP Manager during non-duty hours (i.e., at a time when the employee is off duty/off property); or while unimpaired and otherwise in compliance with the CN Alcohol and Drug policy.

Employees will also be granted enrollment if an employee's supervisor, co-worker, or different representative of the employee's collective bargaining unit contacts the EAP Manager, and subsequent interviews result in the employee's voluntary enrollment.

Voluntary referral and subsequent handling, including counseling and treatment, will be considered confidential.

This rule of confidentiality is waived 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.

The Employee Assistance Program handles all voluntary enrollments confidentially, with an exception for engineers/RCO's:

- With respect to a certified locomotive engineer, RCO or a candidate for certification, per 49 CFR 240.119(e), confidentiality is waived (to the extent that the railroad shall receive from the EAP Counselor 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.

9.2 Voluntary enrollment is not available under the following circumstances:

- While an employee is under investigation or discipline for a positive alcohol/drug test or violation of this policy,
- After an employee is charged with an incident or rules violation associated with alcohol or drug use,
- During the time when an employee has committed an act which may reasonably be subject to discipline, but no formal charge has been leveled,
- Once an employee has been notified they are to be tested for alcohol and/or drugs, and

- When the employee is under the influence of controlled substances or alcohol when on duty or on company property.
- 9.3** Within ten (10) days of initial contact with the employee, the EAP or SAP will schedule and perform an initial assessment.
- 9.4** If necessary, the EAP or SAP will arrange for up to 60 days of medical leave of absence, during which the employee may be treated for his or her condition.
- The medical leave of absence may be extended with approval from the Medical Services Department.
 - Employees enrolling voluntarily in EAP are required to follow all specified treatment and education instructions.
 - Employees will be returned to service on the recommendation of an EAP or SAP (FRA or FMCSA).

Section 10. Co-Worker Report Policy

This section is designed to foster employee participation in preventing violations of CN alcohol and drug policy and encourage co-worker participation. An employee eligible for treatment under the provisions of this Co-Worker Report Policy may avoid discipline based on the co-worker report and maintain an employment relationship with CN provided the employee fulfills all conditions outlined below.

10.1 To qualify for handling under this section of the policy, the following conditions must exist:

1. The employee must be subject to Hours of Service under 49 CFR Part 219.
2. The employee must have no prior alcohol or drug offenses.
3. The alleged violation must come to a railroad officer's attention exclusively as the result of a report by a co-worker that:
 - An employee is apparently unsafe to work with, or
 - An employee is or appeared to be in violation of CN alcohol and drug policy.

10.2 Upon receiving such a report, the railroad officer will immediately investigate the report.

- A CN supervisor, trained in signs and symptoms, will make a determination whether a violation occurred and inform the employee of the specific allegations made. The name of the person making the report will not be revealed.
- A CN supervisor will inform the employee of the consequences of alcohol or drug abuse as outlined in this policy.
- The supervisor will inform the employee of the services available through the CN Employee Assistance Program and his rights under the co-worker report procedures as outlined in this policy.
- The supervisor will ask the employee whether he or she wishes to work with the EAP Manager using the co-worker report procedures as outlined in this policy.

10.3 The employee must elect to waive the investigation on the rule violation and contact an EAP Manager to schedule and perform an assessment by a SAP. The formal investigation will be canceled upon signature of the waiver. The employee will be referred to the Employee Assistance Program for evaluation and treatment.

- The employee has five (5) days from accepting the Waiver to contact the EAP Manager.
- Within ten (10) days of contacting the EAP Manager, the employee must complete a SAP evaluation.

- This process may be extended by the SAP to maximum of twenty (20) days if further evaluation is required.

If the SAP determines the employee is affected by psychological or chemical dependence or identifies a treatable mental or physical disorder involving the abuse of alcohol or drugs,

- Employees will be granted medical leave of absence extending up to sixty (60) days, for initial treatment.
- The employee must agree to undertake and successfully complete a course of treatment deemed acceptable by the SAP.
- When the employee has established control over the substance abuse problem, he/she will be returned to service on the recommendation of the SAP. This process may also require a successful return to service medical examination.
 - Upon the employee's return to work, the employee may be required as necessary to participate in a follow-up program. Follow-up Testing will include a minimum of six (6) tests within the first twelve (12) months following the employee's return to service. Follow-up Testing for locomotive engineers must include at least six (6) alcohol tests **and** six (6) drug tests within the first twelve (12) months. Additional Follow-up Testing may be specified by the SAP for a maximum of five (5) years following the employee's return to service. The Substance Abuse Professional may terminate the Follow-up Testing at any time after the initial tests required during the first twelve (12) months have been administered.
 - If the person at any time refuses to cooperate in a recommended course of counseling or treatment, provisions under this policy for failure to follow instructions apply.

When treatment is not required:

If the SAP determines the employee is not affected by an identifiable and treatable mental or physical disorder, the employee will be returned to service within five (5) days after completion of the minimum education requirements. During or following the out-of-service period, the railroad will require the employee to participate in a program of education and training concerning the effects of alcohol and drugs on occupational or transportation safety. If there has been a violation of Federal regulations (49 CFR 219.101 or 219.102), the railroad must conduct Federal return to work and follow-up tests (as described in 49 CFR 219.104) on an employee who waived investigation and is determined to be ready to return to service under 49 CFR 219.405.

- 10.4** If the employee does not exercise the waiver, an investigation will be scheduled and proceed normally per applicable labor agreements.

- 10.5.** If the employee does not exercise the waiver and the railroad officer(s) determines, through direct observation, that the employee exhibits signs or symptoms of drug or alcohol abuse, the employee will be immediately alcohol and/or drug tested using Reasonable Suspicion Testing procedures. The employee will be withheld from service pending the results of the test.

Section 11. Administration

11.1 Questions regarding this policy should be referred to the Medical Services Department.

Section 12. Policy Implication

12.1 Nothing in this policy is intended or shall be construed to create or form the basis of an express or implied contract of covenant of employment between CN and any employee or group of employees.

Section 13. Policy Changes

13.1 CN reserves the right to alter, modify, expand, amend or cancel this policy and the programs described herein at any time, without notice.

13.2 CN reserves the exclusive right to interpret and apply this policy.

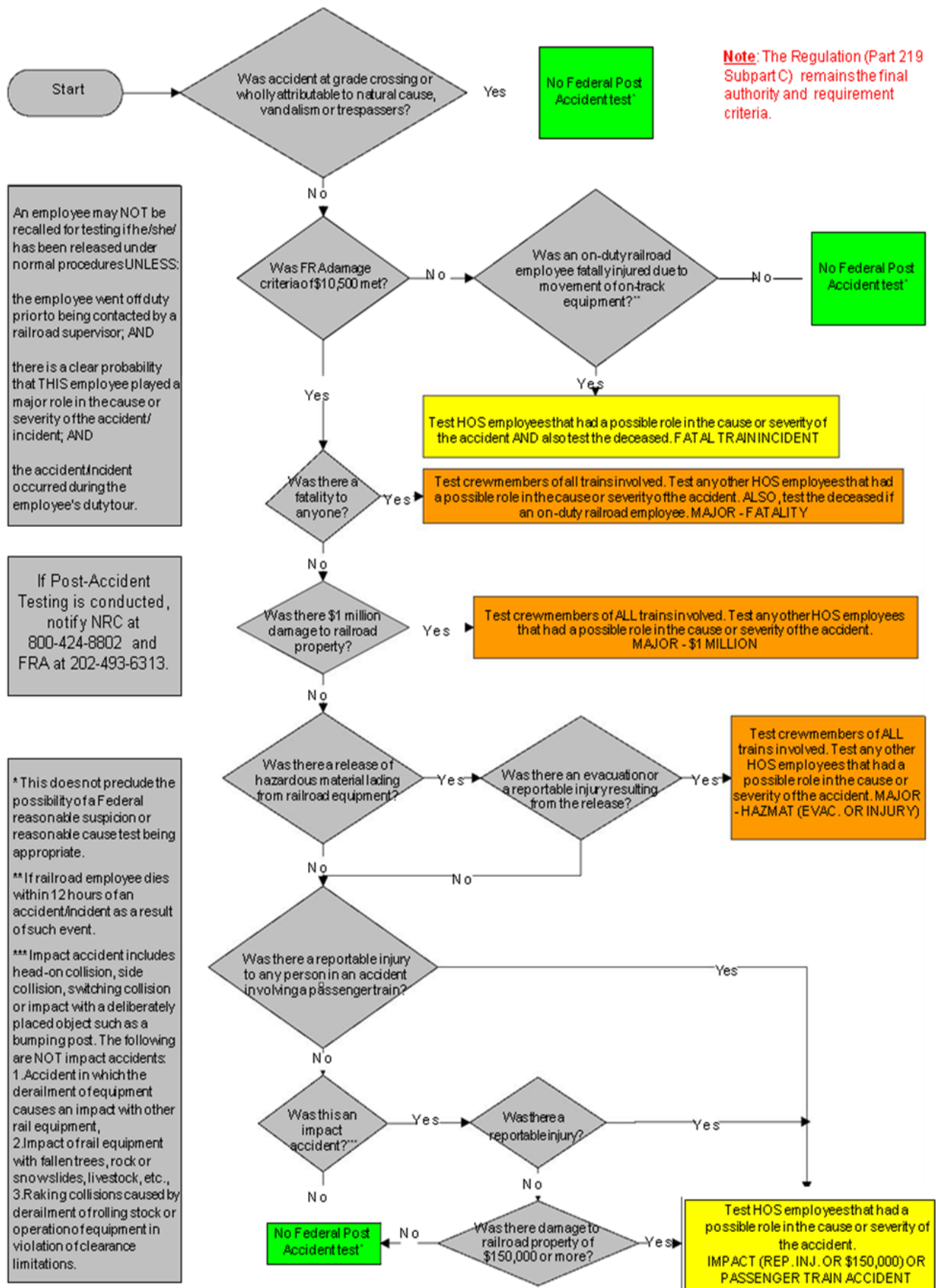
Section 14. Important Contacts

Employee Assistance Program 1-800-554-6931

Medical Services Department

- Designated Employer Representative (DER) 1-708-332-3573

Appendix 1 – Post Accident Testing – FRA Accident (Flow Chart)



An employee may NOT be recalled for testing if he/she/ has been released under normal procedures UNLESS:

- the employee went off duty prior to being contacted by a railroad supervisor; AND
- there is a clear probability that THIS employee played a major role in the cause or severity of the accident/ incident; AND
- the accident/incident occurred during the employee's duty tour.

If Post-Accident Testing is conducted, notify NRC at 800-424-8802 and FRA at 202-493-6313.

* This does not preclude the possibility of a Federal reasonable suspicion or reasonable cause test being appropriate.

** If railroad employee dies within 12 hours of an accident/incident as a result of such event.

*** Impact accident includes head-on collision, side collision, switching collision or impact with a deliberately placed object such as a bumping post. The following are NOT impact accidents:

1. Accident in which the derailment of equipment causes an impact with other rail equipment,
2. Impact of rail equipment with fallen trees, rock or snowslides, livestock, etc.,
3. Raking collisions caused by derailment of rolling stock or operation of equipment in violation of clearance limitations.

For all FRA post accident testing or with any questions, call CN's Designated Employee Representative: 708-332-3573 or cell 708-305-5279

