

# Business Item

Management Committee



Committee meeting date: August 13, 2025

For the Metropolitan Council: August 27, 2025

## Business Item: 2025-200

Federal Railroad Administration (FRA) Drug and Alcohol Policy

|                                  |                                                                                                             |
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| <b>District(s), member(s):</b>   | All                                                                                                         |
| <b>Policy/legal reference:</b>   | 49 CFR Parts 40 and 219                                                                                     |
| <b>Staff prepared/presented:</b> | Melissa Haas, Senior Manager – Occupational Health<br>Kris Erickson, Program Coordinator – Drug and Alcohol |
| <b>Division/department:</b>      | Regional Administration/Human Resources                                                                     |

### Proposed action

That the Metropolitan Council approve the Federal Railroad Administration (FRA) Drug and Alcohol Policy.

### Background

As the operator of the Northstar Commuter Railroad, the Metropolitan Council is required by 49 CFR 219.23(c) to develop and publish educational materials specifically designed for FRA-regulated employees that clearly explain the requirements of 49 CFR Part 219, as well as the railroad's policies and procedures with respect to meeting those requirements. FRA regulations must also be complied with at the five highway-rail grade crossings along the METRO Green Line Extension.

### Rationale

The Metropolitan Council is required by Federal regulation to establish this policy.

### Thrive lens analysis

On Feb. 12, 2025, the Council adopted Imagine 2050, which builds on policy direction in Thrive MSP 2040. Under the Thrive lens, this revised policy supports our core value of accountability by meeting the regulatory requirements of FRA.

### Funding

There is no funding implication.

### Small business inclusion

This is not applicable.

## POLICY

### Federal Railroad Administration Drug and Alcohol Policy

HR 2-6

**Category:** Human Resources

**Business Unit Responsible:** RA: Human Resources

**Policy Owner:** Kris Erickson, Drug and Alcohol Program Coordinator

**Policy Contact:** Kris Erickson, Drug and Alcohol Program Coordinator

**Synopsis:** Establishes a Federal Railroad Administration drug and alcohol policy as required by 49 CFR Part 219

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## POLICY

The Metropolitan Council must comply with numerous regulations found at 49 Code of Federal Regulations (CFR) Parts 200-299, including the requirements found at 49 CFR Part 219, Control of Alcohol and Drug Use.

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## PURPOSE OF POLICY

This policy is issued pursuant to 49 CFR Part 219, as amended and 49 CFR Part 40, as amended. The Metropolitan Council requires all employees regulated by 49 CFR Part 219 to submit to the drug and alcohol tests mandated by 49 CFR Part 219 as a condition of employment.

Portions of this policy are not Federal Railroad Administration-mandated but reflect Metropolitan Council policy. These additional provisions are identified by **bold text**.

In addition, the U.S. Department of Transportation has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the Federal Railroad Administration.

**All Metropolitan Council employees are subject to the provisions of the Drug-Free Workplace Act of 1988 and must comply with HR 2-2 Drug and Alcohol Free Workplace Policy [HR 2-2 Drug and Alcohol-Free Workplace Policy.pdf \(sharepoint.com\)](#).**

## EMPLOYEES SUBJECT TO THIS POLICY

This policy applies to every person, including an applicant, transferee, contractor, or volunteer, who performs regulated service as defined in 49 CFR 219.5 for the Metropolitan Council, generally including any the following crafts or safety sensitive functions:

Train and engine service employees involved in the movement of trains or engines (e.g., conductors, brakemen, switchmen, engineers, locomotive hostlers and/or helpers)

Dispatching employees who issue mandatory directives (e.g., train dispatchers, control operators)

Signal employees who inspect, repair, or maintain signal systems

Maintenance-of-way employees performing duties of roadway workers (employees whose duties include inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities, or roadway maintenance machinery on or near track or with the potential of fouling track, and flagmen and watchmen/lookouts)

Any employee who, on behalf of a railroad, performs mechanical tests or inspections required by Parts 215, 221, 229, 230, 232 or 238 on railroad rolling equipment, or its components, except for:

An employee who is a member of a train crew assigned to test or inspect railroad rolling equipment that is part of a train or yard movement the employee has been called to operate

An employee who only performs one or more of the following duties:

Cleaning and/or supplying cabooses, locomotives, or passenger cars with ice, food concession items, drinking water, tools, sanitary supplies, or flagging equipment

Servicing activities on locomotives such as fueling, replenishing engine oils and engine water, sanding, and toilet discharge and recharge

Checking lading for pilferage or vandalism

- Loading, unloading, or shifting of cars

Any regulated employee who is required to perform regulated service for the Metropolitan Council is deemed to have consented to testing. A regulated employee must be on duty and available to perform regulated service when the specimen collection is initiated and the alcohol testing and/or urine specimen is collected, with the exception of pre-employment testing.

## PROHIBITED BEHAVIOR

No regulated employee may use or possess alcohol or any controlled substance when the employee is on duty and available to perform regulated service, and the Metropolitan Council prohibits a regulated employee from using a controlled substance at any time, whether on duty or off duty. However, possession and use of a legal, prescribed controlled substance is permitted if all of the following conditions are met:

1. **The employee reports that their medical provider prescribed any controlled substance using the [Medical Authorization for Prescription \(RX\) and Over the Counter \(OTC\) Drugs form](#).**
2. A treating medical practitioner makes a good faith judgment, in writing, after reviewing the employee's assigned duties and the available medical history, that use of the substance by the employee at the prescribed or authorized dosage is consistent with the safe performance of the employee's duties and, if required, a physician designated by the Metropolitan Council concurs.
3. The substance is used at the dosage prescribed.
4. In the event the employee is being treated by more than one personal medical practitioner, at least one personal treating medical practitioner has been informed of all medications authorized or prescribed and has determined that use of the medications is consistent with the safe

performance of the employee's duties (and the employee has observed any restrictions imposed with respect to use of the medications in combination).

Use of illegal controlled substances by regulated employees is prohibited at all times, regardless of whether the employee is on or off duty. Illegal controlled substances include:

- Marijuana(\*)
- Cocaine
- Phencyclidine (PCP)
- Opioids
- Amphetamines

*(\*) Although the State of Minnesota has legalized marijuana, marijuana remains an illegal substance under federal law. Employees subject to regulation by the Federal Railroad Administration must comply with federal law.*

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

- Under the influence of or impaired by alcohol
- Having a concentration of 0.04 or greater in the breath or blood
- While under the influence of or impaired by any illegal drug or controlled substance

All regulated employees are prohibited from consuming alcohol within four hours prior to reporting for regulated service or after receiving notice to report for regulated service.

Following a blood or breath alcohol concentration of 0.02 or greater, but less than 0.04, Occupational Health will direct a manager or supervisor to remove the employee from regulated service until the start of their next regularly scheduled duty period (but for not less than eight hours following administration of the test).

## Required reporting

Certified employees such as engineers and conductors, including hostlers or mechanical department locomotive movers, must report any conviction for, or state action to, cancel, revoke, suspend, or deny a motor vehicle driver's license. The report must be made to a Designated Supervisor of Locomotive Engineers identified in Appendix A as follows:

1. If the conviction or completed state action occurs as a result of operating a motor vehicle while under the influence of or impairment by alcohol or a controlled substance, or occurs as a result of a refusal to undergo testing to determine influence of or impairment by alcohol or a controlled substance while operating a motor vehicle, the conviction or completed state action must be reported within 48 hours of such conviction or completed state action.
2. All other convictions or completed state actions resulting in the cancellation, revocation, suspension, or denial of a driver's license must be reported within five days of the conviction or completed state action.

## Treatment and discipline

Following a positive drug or alcohol (blood or breath alcohol concentration at or above 0.04) test result or test refusal, Occupational Health will direct a manager or supervisor to remove the employee and the employee will be referred to a substance abuse professional.

An employee who refuses to provide a breath or body fluid specimen or specimens when required must be withdrawn from regulated service for a period of nine months. **Under the Metropolitan Council's independent authority, an employee who has refused to test may be terminated from employment.**

An employee with a first occurrence of testing positive for drugs or alcohol on a random test for drugs or alcohol will be subject to the following:

- Immediate removal from regulated service
- Referral to a substance abuse professional for evaluation
- The requirement to successfully pass a return-to-duty drug and/or alcohol test
- The requirement to submit to unannounced follow-up testing as determined by the substance abuse professional

**Under the Metropolitan Council's independent authority, the employee may also be subject to the following:**

- **An unpaid suspension of up to 160 hours**
- **The requirement to sign a Return-To-Work Agreement**

**The cost of any rehabilitation service or treatment program required by the substance abuse professional will be borne by the employee and/or their medical insurance carrier. If inpatient treatment is required by the substance abuse professional, the employee may use accrued sick leave benefits for the time spent in treatment.**

For an employee who meets the criteria below, Occupational Health will direct a manager or employee to remove the employee from regulated service and the employee will be referred to a substance abuse professional:

- A second occurrence of testing positive for drugs or alcohol on a random test
- A first occurrence of testing positive for drugs or alcohol on a reasonable suspicion, post-accident, follow-up or return-to-duty test

**Under the Metropolitan Council's independent authority, an employee with a second occurrence of testing positive for drugs or alcohol on a random test or a first occurrence of testing positive for drugs or alcohol on a reasonable suspicion, post-accident, follow-up or return-to-duty test may be terminated from employment.**

**Under the Metropolitan Council's independent authority, any employee who refuses or fails to comply with the requirements specified in the substance abuse professional's initial evaluation may be terminated from employment.**

**Under the Metropolitan Council's independent authority, an employee with a first occurrence of an alcohol concentration of 0.02 to 0.039 will be prohibited from performing or continuing to perform safety-sensitive functions for a minimum of eight hours and referred to the employee assistance program for evaluation. An employee with a second occurrence of an alcohol concentration of 0.02 to 0.039 may be subject to discipline up to and including termination.**

## **Circumstances for testing**

### **Pre-employment testing**

The Metropolitan Council requires a negative pre-employment drug test result before an employee can first perform regulated service. If a pre-employment test is cancelled, the individual must undergo another test and successfully pass with a verified negative result before performing regulated service. Employees

who transfer from non-regulated service to positions involving regulated service must complete pre-employment testing.

An employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

### **Reasonable suspicion testing**

When the Metropolitan Council has reasonable suspicion to believe that a regulated employee has used a prohibited drug and/or engaged in alcohol misuse, the employee shall undergo a drug and/or alcohol test. A trained supervisor or other trained company official will make the reasonable suspicion referral on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. A supervisor trained in reasonable suspicion determinations must make the reasonable suspicion referral for alcohol testing. Two supervisors or company officials, at least one of whom must be both on-site and trained in reasonable suspicion determinations, must make the reasonable suspicion referral for drug testing.

**Under the Metropolitan Council's independent authority, when an employee has been directed to undergo reasonable suspicion drug and/or alcohol testing, the employee will not be allowed to perform safety-sensitive duties until the results of the reasonable suspicion tests have been received.**

- **If the employee was required to submit to both a drug and an alcohol test, and the result of the alcohol test indicates an alcohol concentration below 0.02, Occupational Health will direct a manager or supervisor to remove the employee from safety-sensitive duty until the results of the drug test are received.**
- **If the employee was required to submit to both a drug and an alcohol test, and the result of the alcohol test indicates an alcohol concentration of 0.02 to 0.039, Occupational Health will direct a manager or supervisor to remove the employee from safety-sensitive duty for a minimum of eight hours. The employee cannot return to safety-sensitive duty until the results of the drug test are received.**
- **If the employee was required to submit to only an alcohol test, the employee may return to safety-sensitive duties if the breath alcohol technician reports to Occupational Health or a manager or supervisor that the result of the breath alcohol test is less than 0.02.**
- **If the employee was required to submit to only a drug test, the employee will be removed from safety-sensitive duty by a manager or supervisor until the results of the drug test are received and reported by Occupational Health.**

### **Post-accident testing**

Assistance in determining if an incident meets post-accident testing criteria can be found in the Federal Railroad Administration Post-Accident Toxicological Testing (PATT) app.

Regulated employees shall be subject to post-accident toxicological tests under the following circumstances:

#### Major train accident

Any train accident (more specifically a rail equipment accident involving damage in excess of the current reporting threshold) that involves one or more of the following:

- (1) A fatality to any person

- (2) A release of hazardous material lading from railroad equipment accompanied by:
  - An evacuation
  - Reportable injury resulting from hazardous material release (such as from fire, explosion, inhalation, or skin contact with the material)
- (3) Damage to railroad property of \$1.5 million (or current threshold as established by the Federal Railroad Administration) or more, not including lading

#### Impact accident

Any impact accident (defined as a head-on or rear-end collision between on-track equipment; a side collision, derailment collision, raking collision, switching collision; impact with a deliberately placed obstruction, such as a bumping post (but not a derail); or impact between on-track equipment and any railroad equipment fouling the track, such as an impact between a train and the boom of an off-rail vehicle) that involves damage in excess of the current report threshold, resulting in either:

- (1) A reportable injury
- (2) Damage to railroad property of \$150,000 (or current threshold as established by the Federal Railroad Administration or more, not including lading)

#### Fatal train incident

Any train incident that involves a fatality to any on-duty railroad employee who dies within 12 hours of the incident as a result of the operation of on-track equipment, regardless of whether that employee was performing regulated service

#### Passenger train accident

Any train accident (defined as a rail equipment accident involving damage in excess of the current reporting threshold) involving a passenger train and a reportable injury to any person

#### Human factor highway-rail grade crossing accident or incident

A highway-rail grade crossing accident or incident when it involves:

- (1) A regulated employee who interferes with the normal functioning of a grade crossing signal system, in testing or otherwise, without first taking measures to provide for safety of highway traffic that depends on the normal functioning of such system;
- (2) A train crewmember who was or who should have been flagging highway traffic to stop due to an activation failure of the grade crossing system;
- (3) A regulated employee who was performing, or should have been performing, the duties of an appropriately equipped flagger due to activation failure, partial activation, or false activation of the grade crossing signal system;
- (4) A fatality to any regulated employee performing duties for the railroad, regardless of fault; or
- (5) A regulated employee who violated a Federal Railroad Administration regulation or railroad operating rule and whose actions may have played a role in the cause or severity of the accident.

With regard to an accident that meets the criteria for a major train accident, all assigned crew members of all involved trains and on-track equipment must be tested. Additionally, any other regulated service employees that had a possible role in the cause or severity of the accident must be tested.

With regard to an accident that meets the criteria for an impact accident, fatal train incident, passenger train accident, or human-factor highway-rail grade crossing accident or incident, test each regulated employee directly involved in the qualifying event. This includes any regulated employee who may not have been present or on duty at the time of location of the event, but whose actions may have played a role in the cause or severity of the incident.

In a fatal train incident, the fatally injured employee must be tested. In a human-factor highway-rail grade crossing accident or incident, a fatally injured employee must be tested regardless of fault.

Post-accident blood and urine specimens should be collected within four hours of the accident or incident. Specimens that are not collected within four hours must be collected as soon thereafter as practicable.

A regulated employee who may be subject to post-accident testing must be retained in duty status for the period necessary to make post-accident testing determinations and complete specimen collection.

**Under the Metropolitan Council's independent authority, when an employee has been directed to undergo post-accident drug and alcohol testing, the employee will not be allowed to perform safety-sensitive duties until the results of the post-accident drug and alcohol tests have been received.**

### **Random testing**

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the Federal Railroad Administration administrator. The current year testing rates can be viewed online at [www.transportation.gov/odapc/random-testing-rates](http://www.transportation.gov/odapc/random-testing-rates).

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each regulated employee will have an equal chance of being tested each time selections are made.

A regulated employee may only be randomly tested while on duty and available to perform regulated service. Random alcohol test collections will be performed unpredictably and in sufficient numbers at either end of an operating shift to attain an acceptable level of deterrence throughout the entire shift.

Each regulated employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

### **Return-to-duty testing**

Any employee who is allowed to return to regulated service after refusing to submit to a DOT drug and/or alcohol test, having a verified positive drug test result, and/or having a confirmed alcohol test result 0.04 or greater must first be evaluated by a substance abuse professional, complete any required program of education and/or treatment, and provide a negative return-to-duty test result for any return-to-duty test ordered by the substance abuse professional. Any return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

### **Follow-up testing**

Employees returning to regulated service following a return-to-duty test will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one to five years, as directed by the substance abuse professional. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the substance abuse professional.

All follow-up testing will be conducted while the employee is on duty and available to perform regulated service. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

### **Testing procedures**

All Federal Railroad Administration drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Regulated employees are required to report immediately upon notification to the collection site and will be expected to provide a photo ID card for identification to collection staff. Employees are expected to cooperate with collection site personnel requests. For drug tests, the employee will be requested to remove any unnecessary outer garments such as coats, sweaters, or jackets and will be required to empty their pockets. Collection personnel will complete a Federal Custody and Control Form and/or a federal Alcohol Testing Form and the employee providing a sample will be required to sign either or both forms as appropriate.

Employees will be tested for alcohol just before, during, or immediately following performance of a safety-sensitive function. If an employee's first attempt indicates an alcohol concentration of 0.02 or greater, collection personnel will ask the employee to wait at least 15 minutes and then will re-test the employee. Any result less than 0.02 alcohol concentration is considered a negative test result. If the employee attempts and fails to provide an adequate amount of breath, Occupational Health will refer the employee to the Metropolitan Council's occupational health provider, who will provide a licensed physician to conduct an examination and determine if there is an adequate medical explanation for the employee's inability to provide a specimen.

The Metropolitan Council will use a split urine specimen collection procedure for drug testing. Collection of urine specimens for drug testing will be conducted by a collector meeting the requirements of 49 CFR 40.33 and will be conducted in a setting and manner that ensures the employee's privacy. At the collection site, the employee will be given a sealed container and must provide at least 45mL of urine for testing. The urine is then split into two separate specimen containers with identifying labels and security seals affixed to both. The collection facility is responsible for maintaining a proper chain of custody for delivery of the sample to a U.S. Department of Health and Human Services-certified laboratory for analysis. If the employee is unable to provide an adequate amount of urine, Occupational Health will refer the employee to the Metropolitan Council's occupational health provider, who will provide a licensed physician to conduct an examination and determine if there is an adequate medical explanation for the employee's inability to provide a specimen.

A medical review officer will review the results of drug tests from the laboratory. Prior to making a final decision to verify a positive test result, the medical review officer, or a staff person under the medical review officer's supervision, will contact the employee directly, on a confidential basis, to discuss the test

result. During this discussion, the medical review officer or their staff person will afford the employee the opportunity to offer any additional or clarifying information which may explain the positive test result.

### **Dilute urine specimen**

If there is a negative dilute test result for a test that the employee had advance notice of (e.g., pre-employment and return-to-duty tests), the Metropolitan Council will conduct one additional retest. The result of the second test will be the test of record. If there is a negative dilute test result for a test that the employee had no advance notice of (e.g., random, post-accident, follow-up and reasonable suspicion tests), the negative dilute result will be accepted as a negative result and no second collection will be required.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

### **Split specimen test**

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. The Metropolitan Council guarantees that the split specimen test will be conducted in a timely fashion **and bear the full cost of testing.**

### **Inability to produce a sufficient specimen**

When an employee does not provide a sufficient amount of specimen to permit a drug test, Occupational Health will direct the employee to obtain an evaluation from the Metropolitan Council's occupational health provider, who will provide a licensed physician to conduct an examination in order to determine if the employee has a medical condition that could have prevented the employee from providing a sufficient specimen. The physician will then report the result of the examination to the medical review officer. Based on the results of the examination, the medical review officer will then report the test result as either "cancelled" or "refusal to test."

## **Test refusals**

A regulated employee has refused to test if they:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Metropolitan Council
- (2) Fail to remain at the testing site until the testing process is complete (An individual who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.)
- (3) Fail to attempt to provide a specimen (An individual who does not provide specimen because they have left the testing site before the testing process commenced for a pre-employment test has not refused to test.)
- (4) In the case of a directly observed or monitored urine drug collection, fail to permit monitoring or observation of their provision of a specimen
- (5) Fail to provide a sufficient specimen without a valid medical explanation
- (6) Fail or decline to take a second test as directed by the collector or the Metropolitan Council for drug testing
- (7) Fail to undergo a medical evaluation as required by the medical review officer or the Metropolitan Council's designated employer representative
- (8) Fail to cooperate with any part of the testing process
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine test

- (10) Possess or wear a prosthetic or other device used to tamper with the collection process
- (11) Admit to the adulteration or substitution of a specimen to the collector or medical review officer
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form
- (13) Fail to remain readily available following an accident

If the medical review officer reports that a regulated employee has a verified adulterated or substituted test result, the employee has refused to take a drug test.

If the regulated employee refuses to take a drug and/or alcohol test, the employee incurs the same federal consequences as testing positive. The employee will be immediately removed from performing safety-sensitive functions and referred to a substance abuse professional.

Federal regulations require a regulated employee who has refused to test to be disqualified from any Federal Railroad Administration regulated service for a period of nine months. **Under the employer's independent authority, a covered employee who has refused to test may be terminated from employment.**

## Referral programs

### Self-referral program

A regulated employee who has been abusing drugs and/or alcohol and believes they have a substance abuse problem may voluntarily seek assistance for their problem provided the employee has not been notified of the requirement to submit to reasonable suspicion, random, or post-accident testing; has not refused a drug or alcohol test; or is not under investigation or subject to discipline for a positive drug or alcohol test result or violation of this policy. **Additionally, the voluntary self-referral program is not available to a regulated employee who has been previously assisted under this program or the co-worker referral program.** In order to invoke the benefits of this program, the regulated employee must report their problem with and abuse of drug and/or alcohol to a manager, or the designated employer representative during non-duty hours and while unimpaired and otherwise in compliance with this policy. The designated employer representative will provide the employee with a drug and alcohol counselor referral. The employee is required to contact the drug and alcohol counselor within 24 hours of reporting the drug and/or alcohol abuse problem. Failure to contact the drug and alcohol counselor within 24 hours is considered non-compliance with the referral program. If the counselor reports that the employee failed to make contact within 24 hours, confidentiality surrounding the referral program is considered waived, and the employee's certification will be revoked.

### Co-worker referral program

The Metropolitan Council seeks to foster employee participation in preventing violations of the Federal Railroad Administration Drug and Alcohol Policy. An employee may report a co-worker who appears unsafe to work with due to perceived drug or alcohol use, or who appears to be in violation of this policy, to a railroad manager for purposes of obtaining assistance for the employee. Upon receiving such a report, the manager will investigate the report as follows:

1. Determine if the employee has a previous drug or alcohol violation; if the employee has previous violations, they are ineligible to accept a co-worker referral.
2. If the employee does not have a previous drug or alcohol violation:

- A supervisor trained in signs and symptoms of alcohol and drug abuse will make a determination as to 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.
  - The supervisor will inform the employee that they may either accept or not accept the co-worker referral.
  - If the employee does not accept the co-worker referral, the supervisor must make a reasonable suspicion determination and, if the employee exhibits signs or symptoms of drug or alcohol use or impairment, immediately order a reasonable suspicion test for drugs and/or alcohol (based on observed indicators).
3. If the employee accepts the co-worker referral, the employee must contact the drug and alcohol counselor within 24 hours of accepting the referral. Failure to contact the drug and alcohol counselor within 24 hours is considered non-compliance with the referral program. If the counselor reports that the employee failed to make contact within 24 hours, confidentiality surrounding the referral program is considered waived, and the employee's certification will be revoked.

When an employee is referred under either the self-referral or co-worker referral programs, the drug and alcohol counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. A regulated employee determined by the drug and alcohol counselor to have an active drug abuse disorder may not perform regulated service until the drug and alcohol counselor can report that safety is no longer affected.

The regulated employee will be granted the minimum leave of absence the drug and alcohol counselor recommends to complete a primary education, counseling, or treatment program and to establish control over his or her drug or alcohol abuse problem. **The employee may use accrued sick leave benefits for this leave of absence. The cost of any primary education, counseling, or treatment program required by the drug and alcohol counselor will be borne by the employee and/or their medical insurance carrier.**

The regulated employee will be returned to regulated service upon the drug and alcohol counselor's recommendation that he or she has established control over his or her drug or alcohol abuse problem, has a low risk to return to drug or alcohol abuse, and has complied with any recommended return-to-service requirements. **The regulated employee is also required to complete a return-to-service medical examination as a further condition of reinstatement to regulated service.** The employee will be returned to regulated service within five working days of the drug and alcohol counselor's notification that the employee is fit to return to regulated service.

The employee may be subject to follow-up testing as determined by the drug and alcohol counselor for a period of up to 24 months.

The referral program is confidential, and only the manager to whom the referral was made (if applicable), and the designated employer representative have access to the identities of the individuals in these programs. **However, confidentiality is waived if the employee at any time refuses to cooperate in a recommended course of counseling or treatment or if the employee is involved in a drug or alcohol-related disciplinary offense growing out of subsequent conduct.** With regard to certified locomotive engineers, certified conductors, or candidates for engineer or conductor certification, confidentiality is waived (to the extent the railroad receives from a drug and alcohol counselor's official

notice of the active drug abuse disorder and suspends or revokes the certification, as appropriate) if the employee at any time refuses to cooperate in a recommended course of counseling or treatment.

## **Prescription and non-prescription drug use**

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, an employee must report the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected to Occupational Health using this form: [Medical Authorization for Prescription \(RX\) and Over the Counter \(OTC\) Drugs](#). The employee's physician must complete this form and submit it to Occupational Health. The employee must seek medical advice, as appropriate, while taking such medication and before performing safety-sensitive duties. An employee who performs safety-sensitive work without disclosing the use of any substance which carries a warning label that indicates that mental function, motor skills, or judgment may be adversely affected may be subject to discipline up to and including termination.

Although recreational marijuana and CBD products are legal in Minnesota, DOT regulations prohibit the use of marijuana in any form for DOT-regulated employees. Any employee subject to this policy is prohibited from using marijuana in any form.

## **Information concerning the effects of alcohol and drug misuse**

In the workplace, employees who misuse alcohol and other drugs often have issues including lost productivity, absenteeism, injuries, fatalities, theft, and low employee morale. Impairment in cognition, perception, and motor skills at work create a dangerous environment for the user, his or her co-workers, and the public.

Drug and alcohol use can also damage relationships at home. The effects of drugs can negatively impact families.

Drug and alcohol abuse negatively impacts both physical and mental health. Misuse may cause blackouts, poisoning, overdose, physical and psychological dependence, damage to vital organs such as the brain, heart and liver, and may result in death. Psychological problems as a result of the misuse of alcohol and drugs include depression, psychosis, severe anxiety, and impaired judgement and coordination.

Drugs and alcohol can harm health and the workplace in a variety of ways.

Physical warning signs of drug abuse or addiction may include:

- Bloodshot eyes
- Pupils larger or smaller than usual
- Changes in appetite or sleep patterns
- Sudden weight loss or weight gain
- Deterioration of physical appearance and/or personal grooming habits
- Unusual smells on breath, body, or clothing
- Tremors, slurred speech, or impaired coordination

Behavioral warning signs of drug abuse or addiction may include:

- Drop in attendance and performance at work

- Unexplained financial problems; borrowing or stealing
- Engaging in secretive or suspicious behaviors
- Sudden change in friends, favorite hangouts, and hobbies
- Frequently getting into trouble (fights, accidents, illegal activities)

Psychological warning signs of drug abuse or addiction may include:

- Unexplained change in personality or attitude
- Sudden mood swings, irritability, or angry outbursts
- Periods of unusual hyperactivity, agitation, or giddiness
- Lack of motivation, lethargic, or “spaced out”
- Appearing fearful, anxious, or paranoid

The Metropolitan Council’s Employee Assistance Program is available to employees to assist in evaluating and resolving problems associated with the misuse of alcohol and drugs.

AllOne Health  
 Company code: Metcouncil  
 888-243-5744 or 651-430-3383  
[www.sandcreekeap.com](http://www.sandcreekeap.com)

## POLICY CONTACTS

For questions about this policy, contact:

Kris Erickson  
 Program Coordinator/Designated Employer Representative  
[kris.erickson@metc.state.mn.us](mailto:kris.erickson@metc.state.mn.us)  
 612-500-1190

Rich Sands  
 Program Coordinator/Designated Employer Representative  
[richard.sands@metc.state.mn.us](mailto:richard.sands@metc.state.mn.us)  
 763-461-1414

Siri Kuenster  
 HR Assistant/Assistant Designated Employer Representative  
[siri.kuenster@metc.state.mn.us](mailto:siri.kuenster@metc.state.mn.us)  
 651-602-1471

## APPENDIX A

### **Designated Supervisor of Locomotive Engineers (DSLEs)**

Joel Lund  
Assistant Manager Rail QA  
[joel.lund@metrotransit.org](mailto:joel.lund@metrotransit.org)  
612-349-7094

Jeremy Spilde  
Manager, Commuter Rail Maintenance  
[jeremy.spilde@metrotransit.org](mailto:jeremy.spilde@metrotransit.org)  
612-349-7092

### **Drug and Alcohol Counselor**

Jan Reisch, LICSW, CEAP  
5775 Wayzata Blvd. Suite 700  
St. Louis Park, MN 55416  
312-787-7441

### **Substance Abuse Professionals**

Jan Reisch, LICSW, CEAP  
5775 Wayzata Blvd. Suite 700  
St. Louis Park, MN 55416  
312-787-7441

Christina Eberly, LICSW  
AllOne Health  
1660 S. Highway 100 #338  
St. Louis Park, MN 55416  
612-332-4805

### **Occupational Health Provider**

Minnesota Occupational Health  
1661 St. Anthony Avenue  
St. Paul, MN 55104  
651-968-5300

### **Medical Review Officer**

Dr. Andrew Holtz D.O. WorkforceQA  
2200 S. Main Street, Suite 475  
Salt Lake City, UT 84115  
801-503-3400

## APPENDIX B – Federal Railroad Administration safety-sensitive positions (this list is subject to change)

|                               |                                       |
|-------------------------------|---------------------------------------|
| Electronic Tech Commuter Rail | Mechanic, Commuter Rail               |
| Foreperson, Commuter Rail     | Supervisor, Commuter Rail Maintenance |
| Skilled Helper, Commuter Rail | Manager, Commuter Rail Maintenance    |
| Assistant Manager, Rail QA    |                                       |

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## PROCEDURES

- HR 2-6a Federal Railroad Administration Drug and Alcohol Procedure
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## RESOURCES

### Related Policies

- HR 2-2, Drug and Alcohol-Free Workplace Policy

### Statutory Resources (Minnesota Statutes or Rules, U.S. Code, Federal Regulations)

- 49 CFR Part 219
- 49 CFR Part 40

### Other Resources (training, relevant links)

- [Drug and Alcohol | FRA \(dot.gov\)](#)
  - [eCFR :: 49 CFR Part 40 -- Procedures for Transportation Workplace Drug and Alcohol Testing Programs](#)
  - [eCFR :: 49 CFR Part 219 -- Control of Alcohol and Drug Use](#)
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## HISTORY

### Version 2 – Approval Date (Business Item xx-2020)

Date Approved – Insert high level comments of changes made.

### Version 1 – Approval Date

### Next Content Review Date

Next Periodic Review Date

### Version

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