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NOTICE REQUIREMENTS FOR TRANSMISSION LINE CONSTRUCTION

DEER CREEK STATION NATURAL GAS PIPELINE

August 5, 2010

BASIN ELECTRIC POWER COOPERATIVE

A Touchstone Energy® Cooperative 

OPERATION & MAINTENANCE MANUAL

This manual is provided for Basin Electric Power Cooperative's (BEPC) natural gas transmission pipeline facilities.

These Operating and Maintenance Procedures are intended to be used in conjunction with applicable BEPC Engineering Standards and Construction Specifications.

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SECTION

ANNUAL OPERATION AND MAINTENANCE PROCEUDRES REVIEW

Basin Electric Power Cooperative maintains an Operations and Maintenance manual. The Generation Department reviews the manual annually, not to exceed 15 months. Appropriate parts of the manual are kept at locations where operations and maintenance activities are conducted.

Company procedures are reviewed during OQ training, retesting and daily operations. Operation supervisors and trainers submit recommended changes to Generation Department for review. The committee also solicits recommended changes prior to each meeting.

A record of the review is listed in the table below.

Reviewed By:	Date of Annual Review:	Comments:

1. CORROSION:

The pipelines are externally coated with fusion bonded epoxy. Each weld joint has been coated by applying a shrink sleeve or epoxy resin. A cathodic protection system that meets 49 CFR Part 192 Subpart "I" requirements is installed on all facilities. A third party firm with NACE credentials may be contracted to perform the re-survey and any maintenance functions required by these regulations in lieu of training BEPC personnel. The criteria for cathodic protection is (-850mv). The Operator shall take into consideration IR drop when evaluating protective current.

Procedure:

1. . A "native" pipe – to – soil read will be obtained prior to activation of the cathodic protection system.
2. After the activation of the cathodic protection, documentation of the pipe-to-soil potential in the "on", "instant off" condition, pipe –to -soil and rectifier current and voltage output (as applicable) will be maintained for the life of the facility. This information, along with the read obtained in 1. above will be used to monitor the proper system operation.
3. Insure that the re-survey required to meet 49 CFR Part 192.465, External Corrosion Control: Monitoring is performed at least once each calendar year, with intervals not to exceed 15 months. Promptly make plans for corrective action on those facilities which fail to meet the protection criteria. This action should be completed as soon as possible but not later than 4 months after completion of the survey.
4. Inspect each cathodic protection rectifier or other impressed current power source six (6) times a year with intervals not to exceed 2 ½ months to insure that it is operating properly. Common problems would be blown fuses, blown varistors, loss of AC feeder, and broken header cables to pipe and /or ground beds. If the rectifier is found to be not functioning properly, promptly notify the proper personnel so that corrective action may be implemented. This action should occur before the next scheduled rectifier inspection.
5. Pipe – to – soil reads will be obtained annually, at intervals not to exceed 15 months, for pipeline facilities protected by anodes.
6. Whenever buried gas piping is exposed for any reason, the exposed portion of a coated line will be examined to determine coating condition. If the coating has deteriorated, or the coating is removed, inspect the pipe for corrosion.
7. Inspect the internal surface for evidence of corrosion or other metal loss whenever pipe is removed or opened for any reason.
8. Remove foreign material and corrosion products and apply an external coating to poorly coated or bare portions of pipeline segments that have been exposed for repair.
9. Apply an external coating to any segments that replace existing pipe.

10. If any corrosion is observed either internally or externally contact proper personnel to determine if the condition warrants further investigation. If external corrosion is found that requires remedial action investigate circumferentially and longitudinally beyond the exposed portion to determine if additional corrosion exists that may require remedial action. If internal corrosion is found in the adjacent pipe, investigate to determine the extent of the internal corrosion.
11. Maintain in the operator's office, maps and other records for the pipeline that show the location of cathodically protected piping, cathodic protection facilities, and any structures bonded to the system.
12. Each of the following records must be retained for as long as the pipeline remains in service:

    (a) Each map or record required by item 11 of this section.

    (b) Records of each test, survey, or inspection required by this paragraph, in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist.

Electrical Isolation:

The pipeline is electrically isolated from transmission company pipeline at the start of the line and at the inlet to the generating station piping at the plant site. The integrity of this isolation should be checked as a part of the annual testing.

Temporary electrical bonding cables should be installed before the insulating devices at either end of the pipeline are separated for any reason to reduce the possibility of electrical shock to maintenance personnel due to different potentials on the pipelines. The temporary electrical bonding cables must be removed prior to placing the pipeline back into service.

Permanent bonding cables should be utilized when a section of the pipeline is separated, joined or extended.

Appropriate personnel will continue to monitor the pipelines for indications of stray currents and have in effect a continuing program to minimize the detrimental effects of those currents. They will also collaborate with the local electrical company on common problems including corrosion, fault currents, induced voltages and other concerns associated with corrosion control. Where pipelines are located near structures or any areas where fault currents or unusual risk of lightning may be anticipated, they must be protected against damage from fault currents or lighting, and protective measures must also be taken at insulating devices.

Test Stations:

Stations are installed at approximately 1-mile intervals based on the recommendation of a NACE certified engineer.

Internal Corrosion Control:

The gas stream analysis received from Northern Border Pipeline Company does not contain components or does not contain components in sufficient concentrations to be considered potentially corrosive. Their FERC tariff requirements generally do not allow them to transport gas that is considered to be potentially corrosive.

Atmospheric Corrosion:

Paint all exposed above ground surfaces with a suitable primer and paint to prevent atmospheric corrosion.

Monitoring: BEPC must, at least once every 3 calendar years but with intervals not exceeding 39 months, inspect each pipeline or portion of pipeline that is exposed to the atmosphere and take remedial action whenever necessary. During inspections give particular attention to the pipe at soil-to-air interfaces, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

2. RECORDS:

Procedure:

1. A complete copy of all construction "as-built" drawings will be maintained.
2. A complete copy of all hydrostatic test data, radiographic inspection, inspectors' reports, material specifications, vendor drawings and other pertinent data shall be maintained.
3. All other reports or information that is required by any Procedure shall be maintained.
4. All records will be maintained at the electrical generation station associated with the pipeline.

3. REPORTING INCIDENTS:

An event involving a release of gas from a pipeline and

(a) A death, or personal injury necessitating in-patient hospitalization; or

(b) Estimated property damage, including cost of gas lost, of the operator or others, or both, of $50,000 or more.

(c) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraphs (a) or (b).

Procedure: The above events require immediate notification by telephone to 800-424-8802 DOT National Response Center.

In addition the South Dakota PUC Gas Pipeline Safety Section should also be notified as listed below:

Mr. Nathan Solem	(Office)	605-773-4210
	(Cell)	605-222-3410
	(Home)	605-945-0857

In order that the person designated to make the report has the correct information the following information will have to be provided.

1. Name of operator and person making report and their telephone numbers
2. The location of the incident, (including County).
3. The time and date of the incident.
4. The number fatalities and personal injuries, if any.
5. All other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages. Minimum information includes Pipe Size, Type, Operating Pressure, and Current Weather Conditions at incident site (temperature, wind direction & speed, cloud cover) Road Closures (if any), Evacuations (if any), Gas Loss Mitigation Measures.

A Department of Transportation Form RSPA F 7100.2 is required as soon as practical but not more than 30 days after detection of an incident required to be reported by numbers 1 through 5.

A Department of Transportation Form RSPA F 7100.2-1 must be submitted each year, not later than March 15, for the preceding calendar year.

4. SAFETY RELATED CONDITIONS - REPORTING:

BEPC shall report the existence of any of the following safety-related conditions involving facilities in service. Each report must be filed in accordance with 49 CFR Part191.7 and 191.25.

1. When general corrosion has reduced the wall thickness to less than that required for the maximum allowable operation pressure, and localized corrosion pitting to a degree where leakage might result.
2. Unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide or flood, that impairs the serviceability of the pipeline.
3. Any material defect or physical damage that impairs the serviceability of the pipeline.
4. Any malfunction or operating error that causes the pressure of the pipeline to rise above its maximum allowable operating pressure plus the build-up allowed for operation of over pressure limiting or control devices.
5. A leak in the pipeline that contains gas that constitutes an emergency.

6. Any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of the pipeline.

Reports are Not Required for Safety Related Conditions that :

1. Is an incident or results in an incident before the deadline for filing the safety-related condition report.
2. Exists on a pipeline that is more than 220 yards from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved street, or highway.
3. Is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report, except that reports are required for conditions under Safety Related Conditions Reporting 1 above other than localized corrosion pitting on an effectively coated and cathodically protected pipeline.

5. STARTUP AND SHUTDOWN

The potential for pressure exceeding the main pipeline segment is very unlikely.

1. Prior to pressurizing or de-pressurizing the pipeline determine if the operation could result in the segment involved, or another affected segment, being pressurized in excess of MAOP.
2. Develop a plan adequate for the pipeline segment and situation involved. Base the plan on maintaining pressures at or below the pipeline MAOP.
3. Carefully implement the plan. Monitoring pressures at each end of the pipeline.
4. If pressures in the pipeline exceed its MAOP during startup or shutdown, take immediate action to correct the situation. Refer to Reporting of Incidents above for possible Safety Related Condition reporting requirements.
5. Establish a file for retaining records of pipeline startup and shutdown activities. Document by brief memo each occurrence if the pipeline MAOP is exceeded as a result of a startup or shutdown activity.

6. PROCEDURE REVIEW

The requirements of this procedure apply to all procedures in this manual.

1. Assign an appropriate team to conduct a review of the Procedures once each calendar year.
2. Select a procedure from this manual and review the preparation and work done by personnel to satisfy that procedure. The purpose of the review is to assess the effectiveness and adequacy of the particular procedure used, with respect to performing normal operations and maintenance functions.

3. Once each calendar year review the response of personnel to situations which did or should have resulted in notification of abnormal operations.
4. Maintain a record of reviews required by this procedure.

7. EXCAVATIONS

All excavations shall be planned in advance of the actual work and all relevant conditions shall be considered. Precautions shall include methods to protect personnel from unsafe accumulations of vapor or gas and the dangers of trench collapse. BEPC is a member of the South Dakota One Call System, Inc.

A third party firm will be utilized to locate and mark the pipeline in response to any One Call notification. If there is any excavation by a third party, BEPC personnel should be present to see that no damage is done to the pipeline and that applicable portions of the South Dakota One Call System rules and the BEPC manual "Damage Prevention Program" is adhered to.

1. Notify the affected landowner.
2. Utilize the appropriate state notification system before digging. Notify others known to be affected and request them to locate underground structures.
3. Banks 5 feet high or greater - use slope or support system
4. Trenches less than 5 feet - slope or support system if hazardous ground movement may be expected.
5. Trenches 5 feet deep or more (soft soil) – use slope or support system.
6. Trenches 5 feet deep or more and 8 feet long or more (hard or compact soil) – use support system; or in lieu of support system, use sloping above the 5 foot level at a rise not steeper than 1 foot rise per ½ foot horizontal. Trench shields or boxes may be used in lieu of shoring or sloping.
7. Provide a means of exit, such as ramps, ladders or steps located so the maximum travel distance is 25 feet when employees must work in trenches 4 feet deep or more. Move bracing or shoring along with the excavation.
8. Protect personnel from flammable and toxic gases when ventilation is inadequate. If required, make available emergency rescue equipment, breathing apparatus, and rescue harness and line. Assure that the contractor has this equipment available or that it is available from the fire department or other source as necessary.
9. Be prepared to mark the pipeline within 48 hours/two full working days of receipt of notice for any proposed excavation near the pipeline by others.
10. The pipelines were installed with at least 12" of clearance from any other underground structure not associated with the pipelines. If subsequent activity causes any structure to be installed with less than 12" clearance the pipeline must be protected from damage that could result from the proximity of the other structure.

8. ABNORMAL OPERATION

Abnormal operating conditions (AOC) may be reported by persons either internal or external to BEPC. Document each report of AOCs listed below that is received. Document at least the details of the condition and the reporting person and their phone number. Include in the system documentation that the proper personnel have been notified and have taken action regarding the abnormal operation.

1. Unintended opening or closing of valves or operation of safety devices such as relief valves.
2. Increases in pressure to above MAOP or significant unintended decreases in pressure below normal operating limits. Pressures above MAOP may need to be reported as a Safety Related Condition.
3. Significant unscheduled increases or decreases in flow rated outside of normal operating limits.
4. Loss of communication within the location.
5. Any other malfunction of a component or deviation from normal operations, or personnel error, which might be considered a hazard to either people or property.
6. Document by brief memo or report each occurrence of abnormal operations above. Include in the documentation how the notification was received, the date of the occurrence, and what was done as follow up.

All AOC's shall be investigated and corrected by qualified personnel. Personnel familiar with this procedure and the Emergency Plan are qualified for AOC response. Others may be considered qualified for response to specific problems depending upon their Operator Qualifications. They shall take control of the situation discovered, and take actions to correct it. Establish a file for retaining records of abnormal operation.

Depending upon the situation, some or all of the following actions may be appropriate.

1. Determine the current operating conditions of the affected system. If it is determined that operations can be safely continued, locate any malfunctioning equipment and fix or replace it. If operations cannot be safely continued, initiate isolation or shut down of the system. Initiate Emergency Plan actions if necessary. Arrange for more frequent surveillance or monitoring or change operating parameters to prevent a reoccurrence. If necessary initiate design or equipment changes.
2. If vandalism or unauthorized operation of facilities caused the condition, try to determine how the action occurred. Enhance security as necessary to minimize reoccurrence.

3. After occurrence of any of the situations above check the operations situation at critical locations in the system to determine that operations have returned to normal and no damage has occurred to facilities.
4. Periodically review the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

9. CLASS LOCATION

This survey should be done in conjunction with the surveys required in Section 10, Continuing Surveillance. Whenever an increase in population density indicates a change in class location or the hoop stress corresponding to the MAOP is not consistent with the present class location immediately make a study to determine:

1. If the design, construction and testing procedures followed in the original construction is consistent with the requirements of the present class location.
2. The study should include the physical condition of the segment, the operating and maintenance history, the MAOP and corresponding operating hoop stress and the actual area affected by the population density increase and any factor which might limit expansion of the more densely populated area.

If the hoop stress corresponding to the established MAOP of a segment of the pipeline is not commensurate with the present class location and it is in satisfactory physical condition the MAOP of that segment of pipeline must be confirmed or revised according to the applicable requirements of 49 CFR Part 192.611, Change In Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure.

10. CONTINUING SURVEILLANCE

The route of the pipeline shall be patrolled by foot, car or other means twice each year to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements and other unusual operating and maintenance conditions. . BEPC shall always be observant during normal duties for any activity that could affect the safety of the pipeline and eventually result in a hazard to the public.

1. Make a formal patrol of the line as per the following table.

Class location of the line	At highway and railroad crossings	At all other places
1 and 2	7-1/2 months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4-1/2 months; but at least four times each calendar year.	7-1/2 months; but at least twice each calendar year
4	4-1/2 months; but at least four times each calendar year.	4-1/2 months; but at least four times each calendar year

2. Look for any indications of any leak from the pipeline. Check for any vapor or odor from any vent at road and railway crossings.
3. Note and record the location of any new dwelling intended for human occupancy that lies within 220 yards of the pipeline. Plot any new locations on the "Report of Adjacent Construction – Population Density" form. Review this information for possible class location changes.
4. Look for erosion, excavations, land use and other activity that could reduce cover or which may have damaged or might damage the pipe. Provisions should be made to maintain at least 36" of cover over the pipeline.
5. Record each item found during a patrol that requires further action on a report to provide a permanent record.
6. Maintain patrol records for the life of the pipeline.
7. Review all records including corrosion, operating and other records to determine if there are any conditions that exist that need correction or that would change the status of any part of the pipeline.

11. INVESTIGATION OF FAILURES

Investigate all accidents and failures and prepare an adequate report. The situation may require various disciplines and third party expertise such as corrosion, metallurgical and other disciplines. The investigation shall address at least the following:

1. Nature and history of the failed facility or equipment.
2. Sequence of events leading up to the accident or failure.
3. General data on any systems involved.
   a. Facility specifications.
   b. Operating conditions at the time of failure or incident.
   c. Physical damage to any facilities or equipment.
4. Injury to BEPC and/or third party individuals.
5. Cause of accident or failure. Conduct laboratory analysis if appropriate.

6. Preventive measures to be taken to prevent recurrence.
7. A review of employee activities to determine whether appropriate procedures were followed and if any changes are necessary.
8. Determine if alcohol and drug testing is appropriate.

12. PIPELINE PURGING PROCEDURE

This procedure shall be used to purge air from the new pipeline or when the pipeline is blown down to atmospheric pressure. Plan the activity to insure all personnel are aware of the necessary safety requirements.

1. Notify people living in the area and public agencies such as the County Sheriff, local police or other departments as required. Be aware that, due to the noise that the gas makes as it exits the blow off pipe, the public may report an accident to officials.
2. Insure that no sources of ignition are present in the vicinity of the blowoff stack.
3. When a pipeline is being purged of air by the use of gas, the gas must be released into one end of the line in a moderately rapid and continuous flow. If gas cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas, or pipeline pig, must be released into the line before the gas.
4. When a pipeline is being purged of gas by the use of air, the air must be released into one end of the line in a moderately rapid and continuous flow. If air cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the air.
5. Follow specific purging procedures for the pipeline involved.

13. TESTING OF PRESSURE LIMITING AND RELIEF VALVES

BEPC pipelines are currently designed to operate at full line pressure of the supplying transmission company and therefore do not have pressure relief devices installed for protection of BEPC's pipelines. Pressure regulating valves are installed to control pressure within BEPC's pipelines for operational purposes only.

Regulators:

1. Inspect and test regulators at least once each calendar year at interval not to exceed 15 months.
2. Assure that the regulator is in good mechanical condition and is adequate from the standpoint of reliability of operation for the service intended.
3. Assure that it opens and closes at the set pressures and is properly protected from external conditions and environments that might prevent proper operation.

14. VALVE MAINTENANCE

1. Each valve that could be used during any emergency (critical valve) must be inspected, partially operated and maintained as necessary at intervals not exceeding 15 months, but at least once each calendar year. The following valves are considered "critical valves":

   a) For the Groton Station Line - The one (1) 10" block valve and one (1) 4" blow off valve located at the Northern Border Pipeline interconnection, the one (1) 10" block valve and one (1) 4" blow off valve located near the southwest corner of the BEPC plant property at the end of the pipeline .

   b) For the Deer Creek Station Line – The one (1) 6" block valve on the Launcher / Receiver located at the Northern Border Pipeline Company Interconnect, the one (1) 8" valve and the one (1) 4" blow off valve on the Launcher / Receiver located in the gas yard near the northwest corner of the BEPC plant property at the end of the pipeline.

15. DRUG AND ALCOHOL TESTING

BEPC personnel required to be in a Drug and Alcohol Testing Program are included in the Dakota Gasification Company Drug and Alcohol Program. Career Care – MedCenter One, 107 West Main Avenue, Bismarck, ND 58501, Phone (701) 323-5222 has been contracted to fulfill the requirements of 49 CFR 199 for persons that will be involved in the operations and maintenance of the pipelines.

16. ODORIZATION

BEPC will not odorize gas in its system. All gas will be used to power gas turbines for electric power generation. There will be no domestic use of the gas in the pipelines. BEPC's transmission lines are located in Class 1 and Class 2 locations.

17. GAS LEAK DETECTION SURVEY

This survey should be done in conjunction with the surveys required in Section 10, Continuing Surveillance. If leak detection equipment is not used the survey should be conducted during the growing season so that a vegetation survey will indicate whether or not a leak is present.

1. The survey shall be conducted at intervals not exceeding 15 months, but at least once calendar year.
2. Document all indicated leak locations found during a survey and insure that appropriate action is taken.
3. Maintain all survey records for the life of the facility.

18. PIPELINE MARKING

1. A line marker must be placed and maintained as close as practical over the pipeline at each of the following:
   a. At each crossing of a public road and railroad
   b. At any location necessary to identify the location of the pipeline to reduce the possibility of damage or interference.
2. The following must be written legibly on a background of sharply contrasting color on each line marker:
   a. The word "Warning," "Caution," or "Danger" followed by the words "Gas Pipeline" all of which must be in letters at least 1 inch high.
   b. The name of the operator and the telephone number (including area code) where the operator can be reached at all times.
3. Observe during scheduled patrols if markers are installed as required.
4. Replace missing or damaged signs as soon as possible.

19. REPAIR PROCEDURES

If possible or feasible, make permanent repairs immediately.

If permanent repairs are not possible or feasible, take immediate temporary measures to protect the public whenever:

1. A leak, imperfection, or damage that impairs its serviceability is found in a segment of the pipeline operating at or above 40 percent of the SMYS; and

2. It is not feasible to make a permanent repair at the time of discovery.

Make permanent repairs as soon as feasible.

All repairs of imperfections, damages, welds or leaks will be repaired by an approved, industry recognized method which includes, but is not limited to:

a. Cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength. All removed pipe shall be preserved in the removed condition until all investigations into the cause of failure are completed.
b. Weld-on, full encirclement, split sleeve. Sleeve shall not be installed until all investigations into the cause of failure are completed.
c. Epoxy wrap sleeves.
d. Installation of a properly designed bolt-on leak clamp for temporary repair. Operating pressure must be at a safe level during the installation of the leak clamp.
e. Other industry recognized repair methods.

No permanent repairs shall be made until the SD PUC has been notified and has given permission to proceed.

During the repair procedure, the following shall be performed:

1. Inspect any exposed pipe for leaks, impact damage, coating conditions, and external corrosion. Inspect the internal surface for evidence of corrosion or other metal loss whenever pipe is removed or opened for any reason. 2. Visually inspect buried welds whenever the coating has been removed for any reason.

3. Determine the extent of the damage or defect. If a Safety Related condition per Section 4 exists establish whether it should be reported.

4. When pipe is replaced it shall be pre-tested to the same pressure as the existing pipeline. .

5. All welding will be done by contractor welders that have been qualified to the approved edition of API 1104.

6. All welds will be visually inspected by an individual qualified by appropriate training and experience. All repair welds will be radiographically inspected and the acceptability determined according to the standards in Section 9 of API 1104.

7. Refer to Engineering Standard 8350 for guidance on all pipeline defects and repairs.

Permanent field repair of welds:

Each weld that is unacceptable under 49 CFR PART §192.241, Inspection and Test of Welds, (c) must be repaired as per the applicable parts of Engineering Standards 8320, 8350, 8352, 8360, and 8364.

BEPC shall keep records covering each leak discovered, repair made, transmission line break, leakage survey, line patrol, and inspection for as long as the segment of transmission line involved remains in service.

20. ABANDONMENT OF FACILITIES

Abandoned facilities are those which have been determined to have no present or future use, and that have ceased operation, ether due to deterioration or because they are not needed for gas transportation now or in the future. Inactive facilities are those which have ceased operation, but may be returned to service in the future.

1. Facilities abandoned in accordance with this procedure shall be disconnected and isolated from all sources and supplies of gas by a physical separation. Open ends of pipeline shall be sealed by a welded plate or a permanent type closure or fitting. Branch connections or taps on the facility shall be plugged or sealed.

2. Protect inactive facilities, as they were protected before inactivation, from corrosion using cathodic protection or other means to prevent deterioration. Generally, pipelines should remain filled with natural or inert gas and be pressurized above atmospheric pressure. All Operating Manual requirements must be carried out on inactive facilities.

3. Abandoned facilities shall be purged of gas unless the volume of gas remaining is so small that no potential hazard exists. If air is use as

purging medium, precautions shall be taken to ensure that a combustible mixture is not present after purging.

4. Pipeline segments shall be pigged when applicable, prior to or as part of purging to ensure that no liquid hydrocarbons remain in the line.

21. ACCIDENTAL IGNITION PREVENTION

This procedure establishes safety practices to minimize the danger of accidental ignition of combustible gas mixtures in buildings and other areas where the presence of gas constitutes a hazard of fire or explosion including the following:

a) When a hazardous amount of gas is being vented into open air, each potential source of ignition must be removed from the area and a fire extinguisher must be provided.

b) Gas or electric welding or cutting may not be performed on pipe or on pipe components that contain a combustible mixture of gas and air in the area of work.

c) Post warning signs, where appropriate.

22. TAPPING PROCEDURES

At the present time policy is to limit access to the pipeline to a 10"x 10" x required" tee and related valves and fittings. Any tap would require a specific engineered design. If there is ever any reason for tapping the line the tap will be designed and reinforced to meet at least the Maximum Allowable Operating Pressure of the pipeline and all other code requirements, on a specific occurrence basis. A contractor qualified to perform the tap will be contracted to do the work.

EMERGENCY PROCEDURES

EMERGENCY PLAN
BASIN ELECTRIC POWER COOPERATIVE

PURPOSE:

This procedure establishes a pre-planned response and method of operation in the event of a facility failure or other emergency. This procedure helps satisfy the requirements of 49 CFR Part 192.615 Emergency Plans

RESPONSIBILITY FOR ADMINISTRATION:

Location Management.

GENERAL:

An emergency is any situation involving pipeline facilities or operations which may endanger human life or significant property.

1. Notification of an emergency may come from several different sources including: Company employee, Public Servant, or the general public.
2. All calls shall be verified by immediately calling Basin Electric Power Cooperative (BEPC) Headquarters Security Response Services to verify the information. This action will prevent implementation of the plan based on false or incorrect information. Obtain clear and precise information from the caller. Information should include:
   - Name and telephone number of the caller and location of problem
   - Type of emergency (leak, fire, etc.)
   - Injuries if any.
   - Wind direction.
   - Other information specific to the emergency
   - Time of Receipt of Call.
3. To report a fire or leak the following calls are to be made:
   a. NOTIFY BEPC SECURITY RESPONSE SERVICES
   b. FOR THE GROTON GENERATION STATION:
      1) Notify the Spink or Brown County Sheriff's Office
      2) Notify the Spink or Brown County Emergency Management Office
      3) Notify Station Operator, if necessary
   c. FOR THE DEER CREEK GENERATION STATION:
      1) Notify the Brookings or Deuel County Sheriff's Office
      2) Notify the Brookings or Deuel County Emergency Management Office
      3) Notify Station Operator, if necessary

4. EMERGENCY TELEPHONE NUMBERS

All emergency contact telephone numbers and responding personnel will be updated annually.

BEPC Security Response Services	1-800-339-5616
Kevin Tschosik – Manager, Distributed Generation (BEPC HDQ)	Work 1-701- 557-5674 Cell 1-701-426-9392
Groton Generation Station:	
Anthony Skonhovd – Operations and Maintenance Supervisor	Work 1-605-397-2369 Cell 1-605-670-8761
Control Room 701-557-5898	
Clyde Moch- Operator Technician	Cell 1-605-677-9111
Scott Bather - Operator Technician	Cell 1-605-677-9056
Deer Creek Generation Station	
Bob Boettcher Station Construction Manager	Cell 1-701-595-2584
DOT National Response Center	1-800-424-8802
South Dakota PUC Gas Pipeline Safety Section	
Mr. Nathan Solem	Office) 1-605-773-4210 (Cell) 1-605-222-3410 (Home) 1-605-945-0857
Spink County	
Sheriff	605-472-4595 or 911
Ambulance	911
Fire Department	911
Emergency Management	605-472-4591
Brown County	
Sheriff	605-626-7100 or 911
Ambulance	911
Fire Department	911
Emergency Management	605-626-7122
Brown County Communications	605-626-7911

Brookings County

Sheriff	605-696-8300 or 911
Ambulance	911
Fire Department	911
Emergency Management	605-692-5212

Deuel County

Sheriff	605-874-8212 or 911
Ambulance	911
Fire Department	911

5. BEPC station personnel will immediately respond to and determine any action required to protect life and property when notice of the following is received:
   a. Gas detected inside or near a building
   b. Fire located near or directly involving a pipeline facility.
   c. Explosion occurring near or directly involving a pipeline facility.
   d. Natural disaster.
6. Several joints of pre-tested replacement pipe are available at each station for emergency replacement. A list of contractor(s) available in the area is listed below:

   Minnesota Limited, Inc.
   Phone: 763-428-4444

7. All emergency actions necessary such as evacuation, controlled entry facility shut down and rescue shall be directed toward the protection of people first and then property.
8. If it is determined necessary, the appropriate block valve shall be closed and the pipeline blown down if necessary to minimize hazards to life or property.

   For the Groton Generation Station, this valve is the BEPC 10" block valve at the Northern Border Pipeline Interconnect (NBPL) valve site 37 (to blow down the pipeline) the 10" block valve located near the Southwest corner of the plant site (to blow down the plant piping only).

   For the Deer Creek Generation Station, this valve is the 6" valve located on the launcher at the near NBPL valve site 42 (to blow down the pipeline) or the 8" valve located on the launcher at the Plant Site (to blow down the plant piping only).

9. Basin Electric Power Cooperative will conduct annual meetings with local emergency agencies to accomplish the following:

    a. Update Emergency responder contact information

    b. Emergency response actions

    c. Familiarize Emergency responders with facilities, specifically the location of emergency valves and access keys for gates (as necessary)

10. After any emergency the system will be safely restored to service in the following manner:

    a. Purge pipeline, if necessary

    b. Follow written procedures and purge piping between pipeline and Interconnect or Plant, if necessary

11. BEPC will comply with the requirements of 49 CFR Part 192.617, Investigation of Failures. This may include any samples of failed or damaged pipe or other equipment.

12. A copy of the current emergency procedures, and any updates, will be furnished to all supervisors.

13. Appropriate personnel will be given training in the Emergency Plan procedures.

14. A review to determine if the Emergency Plan was effective will be conducted after any emergency. Appropriate changes will be made to the Plan, as necessary.

15. Maintain liaison with all appropriate public safety officials to establish an interface for cooperation, response, and mutual assistance in dealing with emergencies.

REFERENCE:

DAMAGE PREVENTION PLAN

PUBLIC EDUCATION PLAN

DAKOTA GASIFICATION COMPANY PROCEDURE

Effective Date:	Procedure No.:	Revision No.	Date Revised:	Page:
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Affected Department (s):	Originating Department	
Plantwide	Human Resources / Technical Services	
	Final Approval	Date
	/s/ R.A. Fagerstrom	2/1/10

Subject

D.O.T. Anti-Drug Plan
(original effective date for plan was February 1990)

I. PURPOSE

Provide guidelines and instructions on the implementation of the drug testing regulation per 49 CFR Part 40, 199, and 382 as established by Research and Special Program Administration and the Federal Motor Carrier Safety Administration of the Department of Transportation.

II. RESPONSIBILITY

Responsibility for the implementation of this procedure is the Plant Manager of Dakota Gasification Company or his designee.

III. GENERAL

Implementation shall be in accordance with this procedure.

NOTE: This procedure is not all-inclusive of the requirements of Part 40, 199, and 382. All requirements of Part 40, 199, and 382 that are applicable will be adopted by DGC.

IV. REFERENCE

49 CFR Part 40 – Procedure for Transportation Workplace Drug and Alcohol Testing Program
49 CFR Part 192 – Transportation of Natural and Other Gas by Pipeline
49 CFR Part 195 – Transportation of Hazardous Liquids by Pipeline
49 CFR Part 199 – Drug and Alcohol Testing
49 CFR Part 382 – Federal Motor Carrier Safety Administration

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V. TABLE OF CONTENTS

ANTI-DRUG PLAN

SECTION I – INTRODUCTION

A. Prohibited Drug Policy

1. DGC has had a long standing commitment to maintain the highest standards for employee safety and health. The use of controlled substances is contrary to these high standards.

2. This policy is also to bring DGC into compliance with federal law. The purpose of the anti-drug plan is to reduce accidents that result from the use of controlled substances, thereby reducing fatalities, injuries, and property damage.

B. Implementation of Anti-drug Plan

1. DGC has implemented the Research and Special Programs Administration, Drug and Alcohol Testing Regulations as set forth in 49 CFR Part 199, the Federal Motor Carrier Safety Administration, Controlled Substances Regulations as set forth in 49 CFR Part 382, and the Department of Transportation, Procedures for Transportation Workplace Drug and Alcohol Testing Programs as set forth in 49 CFR Part 40. Rev. 1

C. Applicability

1. This anti-drug plan applies to DGC's SNG and CO_2 pipeline employees who perform operations, maintenance or emergency response functions regulated by 49 CFR 192 or 195, and employees that meet the Federal Motor Carrier Safety Administration Criteria, Part 382. Rev. 1

D. Background

1. The catalyst for the anti-drug plan is Title 49 Code of Federal Regulations (CFR) Part 199 and Part 382 which require the pipeline operators subject to 49 CRF Parts 192 and 195, their contractors, and organizations with truck drivers of vehicles over 26,000 pounds, to test their employees for prohibited drugs under the following work-related conditions:

   a. Pre-employment

   b. Post-accident

   c. Random

   d. Reasonable cause

2. Title 49 CFR Part 40 specifies procedures which must be followed by DGC and their contractors when conducting drug testing pursuant to regulations issued by agencies of the Department of Transportation.

E. Definitions

For purposes of this anti-drug plan, the following definitions apply:

Accident (pipeline) – an incident reportable under Part 191 involving release of gas from pipeline facilities or an accident reportable under Part 195 involving hazardous liquid pipeline facilities.

1. A death or personal injury necessitating in-patient hospitalization.

2. Estimated property damage, including cost of gas lost, to the operator, or others, or both, of $50,000 or more.

3. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph "a" or "b".

4. Explosion or fire not intentionally set by operator.

5. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
   - Not otherwise reportable under this section.
   - Not one described in section 195.52 (a)(4).
   - Confined to company property or pipeline right-of-way and cleaned up promptly.

6. Death of any person.

7. Personal injuries necessitating hospitalization.

8. Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to property of the operator or others, or both, exceeding $50,000.

Accident (truck) – an occurrence involving a commercial motor vehicle operating on a public road, which results in:

1. A death, or bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene.

2. One or more motor vehicles incurring disabling damage, requiring the vehicles(s) to be towed from the scene.

Adulterated Specimen – a urine specimen containing a substance that is not a normal constituent, or containing an endogenous substance at a concentration that is not a normal physiological concentration.

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Aliquot – a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Blind Specimen or Blind Performance Test Specimen – a specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.

Commercial Motor Vehicle – a motor vehicle or combination of vehicles used in commerce to transport passengers or property if:

1. Gross vehicle weight rating is 26,001 or more pounds.

2. Gross combination weight rating is 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.

3. The vehicle is designed to transport 16 or more passengers including the driver.

4. The vehicle is used to transport materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172F).

Confirmatory Drug Test – a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas Chromatography/Mass Spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine. Rev. 2

Confirmatory Validity Test – a second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Confirmed Drug Test – a confirmation test result received by a MRO from a laboratory.

Covered Employee – any person who performs a covered function including contractors engaged by DGC and persons employed by the contractor.

Covered Function (pipeline) – an operation, maintenance, or emergency response function regulated by Part 192 or 195 that is performed on a pipeline. Such person may be employed directly by the company or by a contractor engaged by the company. NOTE: As applied in the regulations, "employee" and "applicant for employment" have the same meaning for the purpose of these requirements. Such functions may consist of construction work, welding, painting, excavation work, equipment maintenance, hydrostatic testing, pipeline coating, corrosion control, etc. Clerical, truck driving, accounting, or other job functions not covered by Part 192 or 195 are not subject to the regulations. Rev. 2

Covered Employee/Safety Sensitive Function (truck) – a driver or operator of a commercial motor vehicle as defined by Part 382. This includes all time from the time the driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and responsibility for performing work. For pre-employment testing this includes the applicant.

Cancelled Test – a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

Chain of Custody – the procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

Collection Container – a container into which the employee urinates to provide the specimen for a drug test. Rev. 1

Collection Site – a place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.

Collector – a person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.

Third-Party Administrator (C/TPA) – a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers.

Continuing Education – training for medical review officers (MROs) and substance abuse professionals (SAPs) who have completed qualification training and are performing MRO or SAP functions designed to keep MRO's and SAP's current on changes and developments in the DOT drug and alcohol testing program. Rev. 1 ↓

DGC – a facility that operates a synthetic natural gas and CO_2 pipeline transmission system.

Dilute Specimen – a urine specimen with creatinine and specific gravity values that are lower than expected for human urine. Rev. 2

Driver – any person who operates a commercial motor vehicle.

Drugs – the drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

Fail a Drug Test or Test Positive – the confirmation test result shows positive evidence of the presence under DOT procedures of prohibited drug in the employee's or applicant's system.

Pass a Drug Test or Test Negative – that initial testing or confirmation testing under DOT procedures does not show evidence of the presence of a prohibited drug in the employee's or applicant's system.

HHS – The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Initial Drug Test – an immunoassay test to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing. Rev. 2 ↓

Initial Validity Test – the first test used to determine if a specimen is adulterated, diluted, or substituted.

Invalid Result – the result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result. Rev. 2

Laboratory – any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs.

Limit of Detection (LOD) – the lowest concentration at which an analyte can be reliably shown to be present under defined conditions. Rev. 2

Medical Review Officer (MRO) – a person who is a licensed physician and who is 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-negative Specimen – a urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid. Rev. 2

Office of Drug and Alcohol Policy and Compliance (ODAPC) – the office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of 49 CFR Part 40.

Oxidizing Adulterant – a substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test. Rev. 2

Performing (a safety-sensitive function) – means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Pipeline Facilities – includes new and existing pipeline rights-of-way, and any equipment, facility, or building used in the transportation of products.

Primary Specimen – in drug testing the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen.

Qualification Training – the training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by an appropriate means (e.g., classroom instrument, internet application, CD-ROM, video).

Refresher Training – the training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g., new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning this part and DOT agency drug and alcohol testing regulations. Refresher training can be provided by any appropriate means (e.g., classroom instruction, internet application, CD-ROM video). Rev. 1

Refusal to Submit – refusal by an individual to provide an adequate urine sample, without a valid medical explanation, after receiving notice of the requirement to be tested in accordance with the company's anti-drug program. Adulteration of a sample will be considered a refusal to submit.

Shipping Container – a container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory. Rev. 1

Specimen Bottle – the bottle that, after being sealed and labeled according to the procedures in this part, is used to hold the urine specimen during transportation to the laboratory.

Split Specimen – in drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Stand-down – the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test result.

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

Substituted Specimen – a urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine. Rev. 2

Verified Test – a drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

F. Responsibilities

1. Drug Program Manager (DPM): Responsible for the administration of the drug testing anti-drug plan which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199, 382, and 40. The DPM shall be responsible for interfacing with the third-party administrator; providing guidance and counseling; reviewing of all discipline applied under this plan for consistency and conformance to the company's policies and procedures concerning human resources; maintaining a locked file system on drug testing results; and overseeing the Employee Assistance Program (EAP).

2. Personnel listed in Appendix "A" contains the name, address, and phone number of DGC third-party administrator and medical review officer who shall perform tasks as designated in the anti-drug plan and per Parts 40, 199, and 382.

3. DOT PSM-RMP Compliance Specialist shall be responsible for the following:

   a. Oversight and evaluation of the plan by performing random audit.

b. Maintaining up-to-date plan.

c. Providing training to employees on the provisions and coverage of the DGC anti-drug plan.

4. Supervisors: DGC individuals responsible for observing the performance and behavior of employees; observation/documentation of events suggestive of reasonable cause; responsible for requests of second supervisor for substantiation and concurrence for reasonable cause testing, if applicable.

5. Employees: Each employee has the responsibility to be knowledgeable of the requirements of the company's anti-drug plan and to fully comply with the provisions of the plan.

G. Third-Party Administrator (MedCenter One Occupational Health) responsibilities will be the following:

1. System for random testing

   - At the present time it is a computerized selection system with personnel to be tested given to the DPM on a monthly basis.

2. The random rate of testing using the DOT Office of Drug and Alcohol Policy and Compliance (ODAPC) Random Testing Rate Notice.

3. Test results to DPM.

4. Year-end testing results as required by Part 199 to DPM.

5. Maintain a secure system for all drug testing records.

SECTION II – DRUG TESTING REQUIREMENTS

A. Applicability

1. Individuals Subject to Drug Testing

   Any applicant/employee who would perform on a pipeline, an operation, maintenance, or emergency response function regulated by Part 192 or 195, would be subject to drug testing under this program. The person may be employed by the company, be a contractor engaged by the company, or be employed by such a contractor. Refer to Appendix B for specific DGC employee titles subject to testing under this program. In addition, any applicant/employee who operates a commercial motor vehicle in accordance with 49 CFR Part 382 is subject to testing.

2. Procedure for Notifying Employees

   This anti-drug testing plan shall be included in the DGC General and Departmental Procedures. This procedure will be covered with employees every two years or when significant changes occur. Records will be kept in FileNet. Rev. 2

3. Substances for Which Testing Must Be Conducted

   DGC shall test employees for evidence of the following substances:
   Marijuana, Cocaine, Opiates, Phencyclidine (PCP), and Amphetamines

4. Pipeline incidents that would require drug testing:

   a. Death or personal injury necessitating in-patient hospitalization.

   b. An event involving a release of gas from a pipeline.

   c. Estimated property damage including cost of gas lost, total operator or others, or both of $50,000 or more.

   d. Explosion or fire of the hazardous liquid or carbon dioxide pipeline.

   e. Release of 5 gallons or more of hazardous liquid or carbon dioxide.

   f. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of a, b, or c.

5. See Appendix C for drivers to be tested for accidents in accordance with 382.

B. Drug Tests Required

1. Pre-employment testing

   A pre-employment drug test with negative results must be conducted before an individual can perform safety sensitive pipeline functions and when individual is transferred/promoted from a non-covered to a covered position. This also applies to employees returning from a leave of absence who have not been participating in the Rev. 2

anti-drug plan and subject to the random selection process. A negative test result is required prior to performing pipeline or motor carrier covered/safety sensitive functions.

2. Post-accident testing

   a. For pipeline accidents, DGC shall promptly determine if the employee's performance contributed to the "accident" (see definition of accident) or cannot be completely discounted as a contributing factor to the accident. Each of these employees shall be drug tested as soon as possible but no later than 32 hours after the accident. DGC must take all reasonable steps to obtain a urine specimen from an employee after an accident, as defined above, but any injury should be treated first.

   b. For truck drivers, DGC shall drug test as soon as possible following an accident involving a commercial motor vehicle per Appendix C.

   c. The following steps will be used to guide the supervisor to a satisfactory outcome in a post-accident situation:

      (1) Verify the post-accident decision. Does the definition of accident in Section I apply to the current situation? For pipelines, does the possibility exist that the employee's performance contributed to the accident or cannot be completely discounted as a contributing factor to the accident? Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? For truck accidents, was there a fatality or moving violation? If no fatality, but a moving violation was cited, was one of the secondary conditions of an accident met, e.g., towed vehicle or treatment away from the scene? Before proceeding further, obtain approval from the department manager or designee to proceed with post-accident testing.

      (2) Isolate and inform the employee. Remove the employee from the work place. Explain the reason for testing.

      (3) Transport the employee. The potentially affected employee will not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to inject anything that could affect the test result or to acquire "clean" urine from another person.

      (4) Document the events. Record the activity performed that supports the determination to conduct a post-accident test. This documentation of the employee's activity should be prepared and signed by the supervisor within 24 hours of the accident or before the results of the tests are released, whichever is earlier, if possible.

      (5) Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request for a urine specimen is not an accusation; it is merely a request for additional objective data.

To the employee it may feel like an accusation, so it is important that this is merely a request for additional data.

(6) Following collection. After returning from the collection site, the employee should not be allowed to perform covered functions pending the results of the drug test.

d. If DGC is unable to obtain a drug test within 32 hours, efforts to obtain a test will be halted and the reasons documented.

3. Random testing

The annual percentage rate for random drug testing shall be per the Administrator of the Research and Special Program Administration (which is published at the beginning of each year in the Federal Register). If the annual test percentage rate isn't used, the rate shall be 50% of covered employees. Rev. 2

a. The primary purposes of random testing are to deter prohibited drug use and to ensure a drug-free workforce. DOT regulations require that covered employees shall be subject to drug testing on an unannounced and random basis.

b. The following is a discussion of the key aspects of the random testing selection process.

(1) Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.

(2) Employees shall be selected for testing by the Third-Party Administrator.

(3) The process will be unannounced. Employees will be notified that they have been selected for testing after they have reported for duty on the day of collection.

(4) Specimen collection will be conducted on different days of the week throughout the various cycles to prevent employees from matching their drug use patterns to the schedule for collection.

c. Steps for random testing

(1) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employee SSN, payroll identification numbers, of other comparable identifying numbers.

(2) As the time arrives for the testing to take place, the DPM shall choose which of the employees are to be randomly tested on that date.

(3) It is the intent of this plan to notify employees of their selection for random testing after they have reported for duty.

d. Notification of employees

(1) The DPM will notify the supervisor of the employee to be tested. Rev. 2

(2) The supervisor will notify the employee that he/she has been chosen for random testing.

(3) The employee will not be notified of the test until after reporting for duty.

(4) Employees shall report immediately to the collection site.

4. Reasonable cause testing

Reasonable cause testing is designed to provide management with a tool (in conjunction with supervisor training on the signs and symptoms of drug use) to identify drug-affected employees who may pose a danger to themselves and others in their job performance. Employees may be at work in a condition that raises concern regarding their safety or productivity. Supervisors must then make a decision as to whether there is reasonable cause to believe an employee is using or has used a prohibited drug.

a. The decision to test must be based on a reasonable and articulate belief that the employee is using a prohibited drug on the basis of specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test an employee. The concurrence by both supervisors can be accomplished by phone, by discussions a few hours later, or by having another supervisor travel to the job site, if only one supervisor is available at that particular job site.

b. In making a determination of reasonable cause, the factors to be considered include, but are not limited to the following:

(1) Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially when there is some evidence of drug related behavior on or off the work site.

(2) Physical signs and symptoms consistent with substance abuse.

(3) Evidence of illegal substance use, possession, sale, or delivery while on duty.

(4) Occurrence of a serious or potentially serious accident that may have been caused by human error, or flagrant violations of established safety, security, or other operational procedures.

NOTE: The checklist designated Appendix G can be used as guidance in determining whether reasonable cause exists to require an employee to submit to a drug test.

c. The following steps will be used to guide the supervisor to a satisfactory outcome in a reasonable cause situation.

(1) Verify the reasonable cause decision. Anonymous tips must be taken seriously, but should not be the sole reason to initiate a request for a specimen. Hearsay is not an acceptable basis for reasonable cause referral. If witnesses saw a specific event or behavior, ask them to describe what they saw. How far away were they? How long did they observe the person? What, if anything, caused them to believe it was substance abuse related? On what basis did they reach their conclusion?

(2) Isolate and inform the employee. Remove the employee from the work location. Explain that there is reasonable cause to believe the employee's performance is being affected by some substance. Ask the employee to explain the suspected behavior and to describe the events that took place from their perspective. Ask if there is any medication or physical condition that would explain the behavior. A persuasive explanation may or may not deter you from asking for a urine sample. If there is still a reasonable belief that drugs are a factor in the situation/incident, a request for testing should be made; if no reasonable belief is determined then no request for testing should be made. If the decision to test is made, inform the employee that they are being requested to accompany the appropriate supervisor to the specimen collection site to provide a urine specimen. Inform the employee of the consequences of refusal to submit to testing.

(3) Review your findings. During the conversation, observe physical and mental symptoms. Be sure to document any characteristics that either support or contradict initial information. In all cases, a reasonable cause decision must be made by two trained supervisors. This creates greater objectivity, provides additional observation, and generally strengthens and defends the reasonable cause determination.

(4) Transport the employee. The potentially affected employee should not be allowed to proceed alone to or from the collection site. In addition to the safety concerns for the employee, accompanying the employee also assures that there is no opportunity en route to the collection site for the employee to ingest anything that could affect the test result or to acquire "clean" urine from another person.

(5) Document the events. Record the behavioral signs and symptoms that support the determination to conduct a reasonable cause test. This documentation of the employee's conduct should be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.

(6) Denial should be an expected reaction. If a person knows they will test positive, they may give many explanations and protestations, wanting to avoid drug testing. If they are not under the influence or affected by a prohibited drug, vehement denial also would be expected. Listen to the employee and carefully evaluate the employee's explanation. Remember, a request to provide a urine specimen is not an accusation; it is merely a request for additional objective data.

To the employee it may feel like an accusation, so it is important that this is merely a request for additional data.

(7) Following collection. After returning from the collection site, the employee shall not perform duties pending the receipt of the drug test results. The employee should make arrangements to be transported home. The employee should be instructed not to drive any motor vehicle due to the reasonable cause belief that they may be under the influence of a drug. If the employee insists on driving, the proper local enforcement authority should be notified that an employee who we believe may be under the influence of a drug is leaving the company premises driving a motor vehicle.

5. Return-to-Duty Testing

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a. Dakota Gasification Company (DGC)

A covered employee who refuses a drug test or has a positive drug test will be terminated; therefore, return-to-duty testing is not an option.

b. Basin Electric Power Cooperative (BEPC)

A covered employee who refuses to take or has a positive drug test may not return to duty in the covered function until the covered employee has complied with applicable provisions of DOT Procedures concerning substance abuse professionals and the return-to-duty process.

6. Follow-up Testing

a. Dakota Gasification Company

A covered employee who refuses a drug test or has a positive test will be terminated; therefore, follow-up testing is not an option.

b. Basin Electric Power Cooperative

A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by the operator following the covered employee's return to duty. The number and frequency of such follow-up testing shall be determined by a substance abuse professional, but shall consist of at least six tests in the first 12 months following the covered employee's return to duty. In addition, follow-up testing may include testing for alcohol as directed by the substance abuse professional, to be performed in accordance with 49 CFR Part 40. Follow-up testing shall not exceed 60 months from the date of the covered employee's return to duty. The substance abuse professional may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the substance abuse professional determines that such testing is no longer necessary.

7. Stand Down Procedure (40.21) (199.7)

   a. DGC is prohibited from standing employees down, except consistent with a waiver a DOT agency grants under 49 CFR 40, Section 40.21 or CFR 49 Part 199, Section 199.7.

SECTION III – USE OF EMPLOYEE WHO FAILS OR REFUSES A DRUG TEST

A. General

Compliance with this drug testing plan is a condition of employment. DGC or their contractor shall not use an employee who knowingly fails a drug test as verified by the MRO (the determination is made by the MRO that there is no legitimate medical explanation for the confirmed positive test) under the DOT procedure (Part 40) or refuses to take a drug test.

Reference: Part 199 and 382

NOTE: Failure of or refusing to take a test shall result in removal from performing covered/safety-sensitive functions.

SECTION IV – THIRD PARTY ADMINISTRATOR

A. The Third-Party Administrator (TPA) shall follow the requirements established in Subpart Q of Part 40.

B. Guidelines for the third-party administrator shall be as follows, but is not all inclusive of the requirement of Subpart Q.

1. TPA may perform for DGC the tasks needed to comply with DOT agency drug testing regulations.

2. Must ensure that, in transmitting information to employers, you meet all requirements (e.g., concerning confidentiality and timing) that would apply if the service agent originating the information (e.g., an MRO or collector) sent the information directly to DGC. If you transmit drug testing results from MRO to DPM, you must transmit each drug test result to the DPM in compliance with the MRO requirements set forth in Section 40.167.

3. May perform the following functions for DGC concerning random selection and other selections for testing.

   a. Operate random testing programs for DGC and may assist DGC with other types of testing (e.g., pre-employment, post-accident, reasonable suspicion).

   b. May combine employees from more than one employer or one transportation industry in a random pool if permitted by all of the DOT agency drug testing regulations involved.

      1) When combining employees from more than one transportation industry, the random testing rate shall be at least equal to the highest rate required by each DOT agency.

      2) Employees not covered by DOT agency regulations may not be part of the same random pool with DOT covered employees.

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4. May receive and maintain all records concerning DOT drug and alcohol testing programs, including positive, negative, and refusal to test individual test results.

5. May maintain all information needed for operating a drug/alcohol program (e.g., CCFs, ATFs, names of employees in random pools, random selection lists, copies of notices to employers of selected employees) on behalf of DGC.

6. Must ensure that you can make available to DGC within two business days any information the employer is asked to produce by a DOT agency representative.

7. Transfer immediately all records pertaining to DGC and its employees to DGC or to any other service agent that DGC designates.

8. Must follow all confidentiality and records retention requirements applicable to DGC.

9. May not provide individual test results or other confidential information to another employer without a specific, written consent from the employee.

10. Must not use blanket consent forms authorizing the release of employee testing information.

11. Must establish adequate confidentiality and security measures to ensure that confidential employee records are not available to unauthorized persons. This includes protecting the physical security of records, access controls, and computer security measures to safeguard confidential data in electronic databases.

12. Must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug testing process covered by Part 40 (including, but not limited to, collections, laboratory testing, MRO, and SAP services).

13. Must not act as an intermediary in the transmission of drug test results from the laboratory to the MRO.

14. Must not transmit drug test results directly from the laboratory to DGC (by electronic or other means). All confirmed laboratory results must be processed by the MRO before they are released to any other party.

15. Must not make decisions to test an employee based upon reasonable suspicion, post-accident, return-to-duty, and follow-up determination criteria.

16. Must not act as a DPM.

17. Must not impose conditions or requirements on DGC that DOT regulations do not authorize.

18. Must not intentionally delay the transmission of drug testing-related documents concerning actions you have performed, because of a payment dispute or other reasons.

SECTION V – REVIEW OF DRUG TESTING RESULTS

A. General

1. DGC shall contract for the services of a Medical Review Officer (MRO).

2. The MRO shall implement the requirements of Subpart G of 49 CFR Part 40 and other applicable requirements of Part 40.

3. The MRO shall not enter into any relationship with DGC laboratory that creates or the appearance of a conflict of interest with his responsibilities to DGC (40.125).

B. Qualification Requirements

1. Credentials – must be a licensed physician (Doctor of Medicine or Osteopathy).

2. Basic knowledge

   a. Subpart G of Part 40, DOT MRO guidelines, and DOT agency regulations applicable to DGC.

   b. MRO must be knowledgeable about and have clinical experience in controlled substance abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug results.

   c. Knowledgeable about issues relating to adulterated and substituted specimens as well as possible medical causes of specimens having an invalid result.

3. Qualification training – must receive qualification training meeting the following requirements.

   a. Collection procedures for urine specimens

   b. Chain of custody, reporting, and recordkeeping

   c. Interpretation of drug and validity tests results

   d. Role and responsibilities of the MRO in the DOT drug testing program

   e. The interaction with other participants in the program (e.g., TPA, DPM, SAP)

4. Must satisfactorily complete an examination administered by a nationally-recognized MRO certification board or subspecialty board for medical practitioners in the field of medical review of DOT-mandated drug tests.

5. Continuing education – during each three-year period from the date on which you satisfactorily complete the examination, must complete continuing education consisting of at least 12 professional development hours (e.g., Continuing Education Medical Units) relevant to performing MRO functions.

a. Continuing education must include material concerning new technologies, interpretations, recent guidance, rule changes, and other information about developments in MRO practice, pertaining to the DOT program, since the time you met the qualification training requirements.

b. Continuing education activities must include assessment tools to assist in determining whether you have adequately learned the material.

c. MRO who has completed the qualification training and examination requirements prior to August 2001 must complete his/her first increment of 12 CEU hours before August 1, 2004.

d. Must maintain documentation showing that all requirements of 40.121 have been met. Must provide on request to the DOT agency representative or employers. Rev. 1

C. Responsibilities (40.123)

1. The MRO is an independent and impartial "gatekeeper" and advocate for the accuracy and integrity of the drug testing process. The MRO is not an employee of the laboratory conducting the drug tests. This is required in order to prevent any appearance of a conflict of interest including assuring that the MRO has no responsibility for, and is not supervised by or the supervisor of, any persons who have responsibility for the drug testing or quality control operations of the laboratory.

2. Provide a quality assurance review of the drug testing process for specimens under his review. Rev. 1

3. Provide feedback to DGC, collection sites, and laboratories regarding performance issues when necessary.

4. Reporting to and consulting with the ODAPC or a relevant DOT agency when DOT assistance in resolving any program issues. Rev. 1

5. Determine whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted, and invalid drug test results from the laboratory.

6. Review CCF on all specimen collections for determination whether there is a problem that may cause a test to be cancelled.

7. Determine whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted and invalid drug test results from the laboratory. Rev. 1

8. Ensure the timely flow of test results and other information to DGC.

9. Protect the confidentiality of the drug testing information.

10. Act to investigate and correct problems where possible and notify appropriate parties (e.g., HHS, DOT, employers, service agents) where assistance is needed (e.g., cancelled or problematic tests, incorrect results, problems with blind specimens). Rev. 1

D. Reporting and Review of Results

1. Negative test results by the MRO is administrative and shall meet the requirement of Subpart "G", Section 40.127.

   a. Review Copy 2 of the CCF to determine if there are any fatal or correctable errors that may require corrective action or to cancel the test. Rev. 1

   b. Review the negative laboratory test result and ensure that it is consistent with information contained on the CCF.

   c. Report the result in a confidential manner.

2. Confirmed positive, adulterated, substituted, or invalid drug test results (40.129)

   a. The MRO shall do the following with respect to confirmed positive, adulterated, substituted, or invalid drug tests received from the laboratory before verifying the result and releasing to the TPA and DGC:

      (1) Review copy 2 of the CCF to determine if there are any fatal or correctable errors that may require you to cancel the test.

      (2) Review copy 1 of the CCF and ensure that it is consistent with the information contained on copy 2, that the test result is legible, and that the certifying scientist signed the form.

      (3) Conduct a verification interview in person or by telephone between himself and the employee.

      (4) Must have the following documents in his possession before reporting the results.

      Legible copy of copy 2 of the CCF containing the employee's signature

      Legible copy of copy 1 of the CCF containing the certifying scientist's signature

      (5) Report the result in a confidential manner.

3. Verification process notification after a confirmed positive, adulterated, substituted, or invalid test results

   a. When the MRO receives a confirmed positive, adulterated, substituted, or invalid test result from the laboratory, he/she must contact the employee directly (i.e., actually talk to the employee), on a confidential basis, to determine whether the employee wants to discuss the test result. In making this contact, he/she must explain to the employee that, if he or she declines to discuss the result, he/she will verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable.

   b. Staff under the MRO's personal supervision may conduct this initial contact.

(1) Staff contact must be limited to scheduling the discussion between you and the employee and explaining the consequences of the employee's declining to speak with you (i.e., that the MRO will verify the test without input from the employee). If the employee declines to speak with the MRO, the staff person must document the employee's decision including the date and time.

(2) Staff person must not gather any medical information or information concerning possible explanations for the test result.

c. The MRO or his staff must make reasonable efforts to reach the employee at the day and evening telephone numbers listed on the CCF. Reasonable efforts include, as a minimum, three attempts, spaced reasonably over a 24-hour period. After making these efforts and the employee cannot be reached, the MRO or his staff must take the following steps:

(1) Document the efforts you made to contact the employee, including dates and times. If both phone numbers are incorrect (e.g., disconnected, wrong number), you may take the following actions without waiting the full 24-hour period.

(a) Contact the DPM instructing the DPM to contact the employee.

(b) Direct the DPM to inform the employee to contact the MRO.

(2) MRO must not inform the DPM that the employee has a confirmed positive, adulterated, substituted, or invalid test result.

(3) Document the dates and times of your attempt to contact the DPM, the name of DPM you contacted, and the date and time of the contact. Rev. 2

(4) DPM must attempt to contact the employee immediately, using procedures that protect, as much as possible, the confidentiality of the MRO's request that the employee contact the MRO. Must document the date and time of the contact and inform the MRO. Must inform the employee that he or she should contact the MRO immediately. Must also inform the employee of the consequences of failing to contact the MRO within the next 72 hours.

(5) DMP must not inform anyone else working for DGC that you are seeking to contact the employee on behalf of the MRO.

(6) The DPM, after making all reasonable efforts to contact the employee but failed to do so, may place the employee on temporary medically unqualified status or medical leave. Reasonable efforts include, as a minimum, three attempts, spaced reasonably over a 24-hour period, to reach the employee at the day and evening telephone numbers listed on the CCF.

(7) The DPM must document the dates and times of these efforts.

(8) The DPM, if unable to contact the employee within this 24-hour period, must leave a message for the employee by any practicable means (e.g., voice mail, e-mail, letter) to contact the MRO and inform the MRO of the date and time of this attempted contact.

4. Verification interview

   a. The MRO, as a minimum, must tell the employee that the laboratory has determined that the employee's test result was positive, adulterated, substituted, or invalid, as applicable. Also tell the employee of the drugs for which his or her specimen tested positive, or the basis for the finding of adulteration or substitution.

   b. Explain the verification interview process to the employee and inform the employee that your decision will be based on information the employee provides in the interview and also other requirements stated in Subpart "G", Section 40.135.

   c. Explain that, if further medical evaluation is needed for the verification process, the employee must comply with your request for this evaluation and that failure to do so is equivalent of expressly declining to discuss the test result.

   d. You must warn an employee who has a confirmed positive, adulterated, substituted or invalid test that you are required to provide to third parties drug test result information and medical information affecting the performance of safety-sensitive duties that the employee gives you in the verification process without the employee's consent. Employees shall be informed of this requirement before obtaining any medical information as part of the verification process.

   e. Medical information includes information on medication or other substances.

   f. Employee information may be provided to DGC, D.O.T. or any safety agency as required by State law.

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5. Verification without interviewing the employee

   a. The MRO may verify a test as positive, refusal to test because of adulteration or substitution, without having communicated directly with the employee about the test in three circumstances:

      (1) The employee expressly declines the opportunity to discuss the test.

      (2) Neither the MRO nor the DPM, after making and documenting all reasonable efforts, has been able to contact the employee within 10 days of the date of which the MRO receives the confirmed test result from the laboratory.

      (3) The DPM has successfully made and documented a contact with the employee and instructed the employee to contact the MRO, and more than 72 hours have passed since the time the employee was successfully contacted by the DPM.

   b. If a test result is verified positive or refusal to test under the circumstances in 5a.1-a.3, the employee, within 60 days of the verification, may present to the MRO information documenting that serious illness, injury, or other circumstances unavoidably precluded contact with the MRO or DPM within the times provided. The MRO, on basis of such information, may reopen the verification processing. This would allow the employee to present information concerning a legitimate explanation for the confirmed positive test.

c. Following verification of a positive test result or refusal to test, the MRO shall refer the case to DGC for action.

6. The MRO may change a verified positive drug test result or refusal to test per the requirement of Section 40.149 of Part 40.

7. Verification for marijuana, cocaine, amphetamines, and/or PCP shall be per Subpart "G", Section 40.137.

8. Verification of opiates shall be per Subpart "G", Section 40.139.

9. MRO notifies employee of their right to a split specimen test.

   a. When the MRO verifies a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, he/she must notify the employee of his or her right to have the split specimen tested.

   b. Must inform the employee that he or she has 72 hours from the time you provide this notification to him or her to request a test of the split specimen.

   c. Must tell the employee how to contact you to make this request. Must provide telephone numbers or other information that will allow the employee to make this request. Must have the ability to receive the employee's calls at all times during the 72 hour period (e.g., by use of an answering machine with a "time stamp" feature when there is no one in your office to answer the phone).

   d. Must tell the employee that if he or she makes this request within 72 hours, DGC must ensure that the test takes place, and that the employee is not required to pay for the test from his or her own funds before the test takes place. Must also tell the employee that the employer may seek reimbursement for the cost of the test.

10. Results consistent with legal drug use

    If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test result to the company as negative.

11. Results scientifically insufficient

    a. The MRO, based on review of inspection reports, quality control data, multiple samples, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation the MRO may request re-analysis of the original sample before making this decision. The MRO may request that re-analysis be performed by the same laboratory or, as provided in paragraph F above, that an aliquot of the original specimen be sent for re-analysis to an alternate laboratory, which is certified in accordance with the DHHS guidelines.

    b. The laboratory shall assist in this review process as requested by the MRO by making available the individual responsible for day-to-day management of the urine drug testing laboratory or other employee who is a forensic toxicologist or who has

equivalent forensic experience in urine drug testing, to provide specific consultation as required by the company. The company shall include in any required annual report to RSPA a summary of any negative findings based on scientific insufficiency but shall not include any person identifying information in such reports.

12. Disclosure of information

a. Except as provided in this paragraph, the MRO shall not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process.

b. The MRO may disclose such information to the company, DOT or other Federal safety agency, any State safety agency as required by state law, or a physician responsible for determining the medical qualification of the employee under the appropriate DOT regulation, as applicable only if:

(1) An applicable DOT regulation permits or requires such disclosure;

(2) In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable DOT rule; or

(3) In the MRO's reasonable medical judgment, in a situation in which there is no DOT rule establishing physical qualification standards applicable to the employee, the information indicates that continued performance by the employee of his or her covered function could pose a significant safety risk.

c. Before obtaining medical information from the employee as part of the verification process, the MRO shall inform the employee that information may be disclosed to third parties as provided in this paragraph and the identity of any parties to who information may be disclosed.

SECTION VI – PROBLEMS IN DRUG TESTS (49 CFR Part 40 Subpart I)

A. Procedures Regarding a Refusal to Take a DOT Drug Test and the Consequences (40.191)

1. An employee has refused to take a drug test if the employee:

   a. Fails to appear for any test within a reasonable time, within 30 minutes plus travel time once notified by company official. This includes the failure of an employee (including an owner-operator) to appear for a test when called by C/TPA (see 40.61(a)). Rev. 2

   b. Fails to remain at the testing site until the testing process is complete.

      NOTE: The employee leaves the testing site before testing process commences for a pre-employment test is not deemed to have refused the test. Rev. 1

   c. Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations.

      NOTE: The employee does not provide a urine specimen because he or she left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test. Rev. 1

   d. In the case of a directly or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen (see 40.67(l) and 40.69(g)).

   e. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see 40.193(d)(2)).

   f. Fails or declines to take a second test DGC or collector has directed you to take.

   g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the process, or as directed by the DPM as part of the "shy bladder" procedures of this part (see 40.193(d)).

   h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process.

   i. An employee admits to the collector that he or she adulterated or substituted their specimen. Rev. 2

   j. The employee behaves in a confrontational way that disrupts the collection process.

   k. The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.

l. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process. Rev. 2

m. The employee refuses to wash his or her hands – after being directed to do so.

2. If the MRO reports that the employee has a verified adulterated or substituted test result, the employee is considered to have refused to take a drug test.

3. An employee who refuses to take a drug test will incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations.

4. When an employee refuses to participate in the part of the testing process in which the collector is involved, the collector must terminate the portion of the testing process in which the collector is involved, document the refusal on the CCF (or in a separate document which the collector caused to be attached to the form), immediately notify the DPM by any means (e.g., telephone or secure fax machine) that ensures that the refusal notification is immediately received. As a referral physician (e.g., physician evaluating a "shy bladder" condition or a claim of legitimate medical explanation in a validity testing situation), you must notify the MRO, who in turn will notify the DPM.

   a. The collector must note the refusal in the "Remarks" line (step 2), and sign and date the CCF.
   b. The MRO must note the refusal by checking the "refused to test because" box (step 6) on Copy 2 of the CCF, and add the reason on the "Remarks" line. The MRO must then sign and date the CCF.

B. Procedures for an Employee Who Does Not Provide a Sufficient Amount of Urine for a Drug Test (40.193)

1. This section prescribes procedures for situations in which an employee does not provide a sufficient amount of urine to permit a drug test (i.e., 45 ml of urine).

2. The collector must do the following:

   a. Discard the insufficient specimen, except where the insufficient specimen was out of temperature range or showed evidence of adulteration or tampering (see 40.65(b) and (c)).

   b. Urge the employee to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. It is not a refusal to test if the employee declines to drink. Document on the remarks line of the CCF and inform the employee of the time at which the three (3) hour period begins and ends. Rev. 1

   c. If the employee refuses to make the attempt to provide a new urine specimen, you must discontinue the collection, note the fact on the "Remarks" line of the CCF (step 2), and immediately notify the DPM. This is a refusal to test.

   d. If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, you must discontinue the collection,

note the fact on the "Remarks" line of the CCF (step 2), and immediately notify the DPM.

e. Send copy 2 of the CCF to the MRO and copy 4 to the DPM. You must send or fax these copies to the MRO and DPM within 24 hours or the next business day.

3. The DPM, when the collector informs him/her that the employee has not provided a sufficient amount of urine (see paragraph 2(d) of this section), the DPM must, after consulting with the MRO, direct the employee to obtain, within five working days, an evaluation from the licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. (The MRO may perform this evaluation if the MRO has appropriate expertise.)

   a. The MRO, if another physician will perform the evaluation, must provide the other physician with the following information and instructions:

      (1) That the employee was required to take a DOT drug test, but was unable to provide a sufficient amount of urine to complete the test;

      (2) The consequences of the appropriate DOT agency regulation for refusing to taken the required drug test;

      (3) That the referral physician must agree to follow the requirements of paragraphs 4 and 7 of this section.

4. The referral physician conducting this evaluation must recommend that the MRO make one of the following determinations:

   a. A medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. If the MRO accepts this recommendation, the MRO must:

      (1) Check "Test Cancelled" (step 6) on the CCF; and

      (2) Sign and date the CCF.

   b. There is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. If the MRO accepts this recommendation, the MRO must:

      (1) Check "Refusal to test because" (step 6) on the CCF and enter reason in the remarks line; and

      (2) Sign and date the CCF.

5. For purposes of this paragraph, a medical condition includes an ascertainable physiological condition (e.g., a urinary system dysfunction) or a medically documented pre-existing psychological disorder, but does not include unsupported assertions of "situational anxiety" or dehydration.

6. The referral physician making the evaluation and, after completing the evaluation, must provide a written statement of his/her recommendations and the basis for them to the MRO. The physician must not include in this statement detailed information on the employee's medical condition beyond what is necessary to explain the conclusion.

7. The referral physician making this evaluation in the case of a pre-employment test, must determine that the employee's medical condition is a serious and permanent or long-term disability that is highly likely to prevent the employee from providing a sufficient amount of urine for a very long or indefinite period of time, the physician must set forth his/her determination and the reasons for it in a written statement to the MRO. The MRO, upon receiving such a report, must follow the requirements of 40.195, where applicable.

8. The MRO must seriously consider and assess the referral physician's recommendations in making his/her determination about whether the employee has a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. The MRO must report his/her determination to the DPM in writing as soon as the determination is made.

9. DGC, who receives a report from the MRO indicating that a test is cancelled as provided in paragraph (4)(a) of this section, DGC can take no further action with respect to the employee. The employee remains in the random testing pool.

C. Criteria for Insufficient Urine on Pre-Employment or Return-to-Duty Medical Condition

Procedure for an individual who is unable to provide a sufficient amount of urine for a pre-employment or return-to-duty test because of a permanent or long-term medical condition (40.195).

1. This section concerns a situation in which an employee has a medical condition that precludes him or her from providing a sufficient specimen for pre-employment or return-to-duty test and the condition involves a permanent or long-term disability. The MRO in this situation must do the following:

   a. The MRO must determine if there is clinical evidence that the individual is an illicit drug user. The MRO must make this determination by personally conducting, or causing to be conducted, a medical evaluation and through consultation with the employee's physician and/or the physician who conducted the evaluation under 40.193(d).

   b. If the MRO does not personally conduct the medical evaluation, the MRO must ensure that an evaluation conducted by a licensed physician is acceptable to the MRO.

   c. For purposes of this section, the MRO or the physician conducting the evaluation may conduct an alternative test (e.g., blood) as part of the medically appropriate procedures in determining clinical evidence of drug use.

2. If the medical evaluation reveals no clinical evidence of drug use, the MRO must report the result to the employer as a negative test with written notations regarding results of both the evaluation conducted under 40.193(d) and any further medical examinations.

This report must state the basis for the determination that a permanent or long-term medical condition exists, making provision of a sufficient urine specimen impossible, and for the determination that no signs and symptoms of drug use exist.

a. Check "Negative" (step 6) on the CCF.

b. Sign and date the CCF.

3. If the medical evaluation reveals clinical evidence of drug use the MRO must report the result to the employer as a cancelled test with written notations regarding results of both the evaluation conducted under 40.193(d) and any further medical examination. This report must state that a permanent or long-term medical conditions exists, making provision of a sufficient urine specimen impossible, and state the reason for the determination that signs and symptoms of drug use exist. Because this is a cancelled test, it does not serve the purposes of a negative test (i.e., the employer is not authorized to allow the employee to begin or resume performing safety-sensitive functions, because a negative test is needed for that purpose).

4. For purposes of this section, permanent or long-term medical conditions are those physiological, anatomic, or psychological abnormalities documented as being present prior to the attempted collection, and considered not amenable to correction or cure for an extended period of time, if ever.

a. Examples would include destruction (any cause) of the glomerular filtration system leading to renal failure; un-repaired traumatic disruption of the urinary tract; or a severe psychiatric disorder focused on genito-urinary matters.

b. Acute or temporary medical conditions, such as cystitis, urethritis, or prostatitis, though they might interfere with collection for a limited time, cannot receive the same exceptional consideration as the permanent or long-term conditions discussed in paragraph (d)(1) of this section.

D. Procedures for DGC Upon Receiving a Report of a Dilute Specimen (40.197)

1. If the MRO informs the company that a positive drug test was dilute, DGC must simply treat the test as a verified positive test. DGC must not direct the employee to take another test based on the fact that the specimen was dilute.

2. If the MRO informs DGC that a negative drug test was dilute, DGC may, but is not required to, direct the employee to take another test immediately. Such re-collections must not be collected under direct observation, unless there is another basis for use of direct observation (see 40.67(b) and (c)).

3. DGC must treat all employees the same for this purpose. For example, DGC must not retest some employees and not others. DGC may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment test situations, but not in random test situations). DGC must inform employees in advance of the decision on these matters.

4. If DGC directs the employee to take another test, DGC will ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site.

5. If DGC directs the employee to take another test, the result of the second test – not that of the original test – becomes the test of record on which DGC must rely for purposes of this 49 CFR Part 40.

6. If DGC requires employees to take another test, and the second test is also negative and dilute, DGC is not permitted to make the employee take a third test because the second test was dilute.

7. If DGC directs the employee 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.

E. Problems That Cause a Drug Test to be Cancelled (40.199)

1. When the laboratory discovers a "fatal flaw" during its processing of incoming specimens (see 40.83), the laboratory will report to the MRO that the specimen has been "Rejected for Testing" (with the reason stated). The MRO must always cancel such a test.

2. The following are "fatal flaws":

   a. There is no printed collector's name and no collector's signature;

   b. The specimen ID numbers on the specimen bottle and the CCF do not match;

   c. The specimen bottle seal is broken or shows evidence of tampering (and a split specimen cannot be redesignated, see 40.83(g)); and

   d. Because of leakage or other causes, there is an insufficient amount of urine in the primary specimen bottle for analysis and the specimens cannot be redesignated (see 40.83 (g)).

3. The MRO must report the result as provided in 40.161.

F. Problems That Cause a Drug Test to be Cancelled and May Result in a Requirement for Another Collection (40.201)

The MRO must cancel a drug test when a laboratory reports that any of the following problems have occurred. The MRO must inform the DPM that the test was cancelled. The MRO must also direct the DPM to ensure that an additional collection occurs immediately, if required by the applicable procedures specified in paragraphs (a) through (e) of this section.

1. The laboratory reports an "Invalid Result". The MRO must follow applicable procedures in 40.159 (re-collection under direct observation may be required).

2. The laboratory reports the result as "Rejected for Testing". The MRO must follow applicable procedures in 40.161 (a recollection may be required).

3. The laboratory's test of the primary specimen is positive and the split specimen is reported by the laboratory as "Failure to Reconfirm: Drug(s)/Drug Metabolite(s) Not Detected". The MRO must follow applicable procedures in 40.187(b) (no re-collection is required in this case).

4. The laboratory's test result for the primary specimen is adulterated or substituted and the split specimen is reported by the laboratory as "Adulterant not found within criteria" or "Specimen not consistent with substitution criteria", as applicable. The MRO must follow applicable procedures in 40.187(c) (no re-collection is required in this case).

5. The laboratory's test of the primary specimen is positive, adulterated, or substituted and the split specimen is unavailable for testing. The MRO must follow applicable procedures in 40.187(d) (re-collection under direct observation is required in this case).

6. The examining physician has determined that there is an acceptable medical explanation of the employee's failure to provide a sufficient amount of urine. The MRO must follow applicable procedures in 40.193(d)(1) (no re-collection is required in this case).

G. Problems That Cause a Drug Test to be Cancelled Unless They Area Corrected (40.203)

1. The MRO, when a laboratory discovers a "correctable flaw" during its processing of incoming specimens (see 40.83), the laboratory will attempt to correct it. If the laboratory is unsuccessful in this attempt, it will report to the MRO that the specimen has been "Rejected for Testing" (with the reason stated).

2. The following are "correctable flaws" that laboratories must attempt to correct:

   a. The collector's signature is omitted on the certification statement on the CCF.

3. When the MRO discovers a "correctable flaw" during the review of the CCF, the MRO must cancel the test unless the flaw is corrected.

4. The following are correctable flaws that the MRO must attempt to correct.

   a. The employee's signature is omitted from the certification statement, unless the employee's failure or refusal to sign is noted on the "Remarks" line of the CCF.

   b. The certifying scientist's signature is omitted on the laboratory copy of the CCF for a positive, adulterated, substituted, or invalid test result.

   c. The collector uses a non-Federal form or an expired Federal form (this flaw may be corrected through the procedure set forth in 40.205(b)(2)) for the test, provided that the collection and testing process is conducted in accordance with DOT procedures in an HHS-certified laboratory following DOT initial and confirmation test criteria. Rev. 1 ↓

H. Correction of Drug Test Problems (40.205)

1. The collector has the responsibility of trying to successfully complete a collection procedure for each employee.

   a. If, during or shortly after the collection process, the collector becomes aware of any event that prevents the completion of a valid test or collection (e.g., a procedure or

paperwork error), the collector must try to correct the problem promptly, if doing so is practicable. The collector may conduct another collection as part of this effort.

b. If another collection is necessary, the collector must begin the new collection procedure as soon as possible, using a new CCF and a new collection kit.

2. If the collector, laboratory, MRO, DGC, or other person implementing these drug testing regulations becomes aware of a problem that can be corrected (see 40.203), but which has not already been corrected under paragraph (a) of this section, they must take all practicable action to correct the problem so that the test is not cancelled.

   a. If the problem resulted from the omission of required information, they must, as the person responsible for providing that information, supply in writing the missing information and a statement that it is true and accurate. For example, suppose the collector forgot to make a notation on the "Remarks" line of the CCF that the employee did not sign the certification. The collector would, when the problem is called to his/her attention, supply a signed statement that the employee failed or refused to sign the certification and that your statement is true and accurate. The collector must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier.

   b. If the problem is the use of a non-Federal form, the person responsible for the use of the incorrect form, must provide a signed statement that the incorrect form contains all the information needed for a valid DOT drug test, that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond your control. The statement must also list the steps taken to prevent future use of non-Federal forms for DOT tests. For this flaw to have been corrected, the test of the specimen must have occurred at a HHS-certified laboratory where it was tested using the testing protocol in 49 CFR Part 40. The person must supply this information on the same business day on which notified of the problem, transmitting it by fax or courier.

   c. The responsible person must maintain the written documentation of a correction with the CCF.

   d. The responsible person must mark the CCF in such a way (e.g., stamp noting correction) as to make it obvious on the face of the CCF that he/she has corrected the flaw.

3. If the correction does not take place the MRO must cancel the test.

I. Effects of a Cancelled Drug Test (40.207)

1. A cancelled drug test is neither positive nor negative.

   a. DGC must not attach to a cancelled test the consequences of a positive test or other violation of a DOT drug testing regulation (e.g., removal from a safety-sensitive position).

b. DGC must not use a cancelled test for the purposes of a negative test to authorize the employee to perform safety-sensitive functions (i.e., in the case of a pre-employment, return-to-duty, or follow-up test).

c. However, DGC must not direct a re-collection for an employee because a test has been cancelled, except in the situations cited in paragraph (1)(b) of this section or other provisions of this part that require another test to be conducted (e.g., 40.150(a)(5) and 40.187(b)).

2. A cancelled test does not count toward compliance with DOT requirements (e.g., being applied toward the number of tests needed to meet DGC's minimum random testing rate).

3. A cancelled DOT test does not provide a valid basis for DGC to conduct a non-DOT test (i.e., a test under company authority).

J. Problems That Require Corrective Action But Do Not Result in Cancellation of a Test (40.208)

1. If, as a laboratory, collector, DGC, or other person implementing the DOT drug testing program, he/she becomes aware that the specimen temperature on the CCF was not checked and the "Remarks" line did not contain an entry regarding the temperature being out of range, he/she must take corrective action, including securing a memorandum for the record explaining the problem and taking appropriate action to ensure that the problem does not recur.

2. This error does not result in the cancellation of the test.

3. DGC or service agent who caused this error, even though not sufficient to cancel a drug test result, may subject the company or service agent to enforcement action under DOT agency regulations or Subpart R of 49 CFR Part 40.

K. Effects of Procedural Problems That Are Not Sufficient to Cancel a Drug Test (40.209)

1. The collector, laboratory, MRO, DGC, or other person administering the drug testing process must document any errors in the testing process of which he/she becomes aware, even if they are not considered problems that will cause a test to be cancelled as listed in this subpart. Decisions about the ultimate impact of these errors will be determined by other administrative or legal proceedings, subject to the limitations of paragraph (2) of this section.

2. No person concerned with the testing process may declare a test cancelled based on an error that does not have a significant adverse effect on the right of the employee to have a fair and accurate test. Matters that do not result in the cancellation of a test include, but are not limited to, the following:

a. A minor administrative mistake (e.g., the omission of the employee's middle initial, a transposition of numbers in the employee's social security number);

b. An error that does not affect employee protections under this part (e.g., the collector's failure to add bluing agent to the toilet bowl, which adversely affects only the ability of the collector to detect tampering with the specimen by the employee);

c. The collection of a specimen by a collector who is required to have been trained (see 40.33), but who has not met this requirement;

d. A delay in the collection process (see 40.61(a));

e. Verification of a test result by an MRO who has the basic credentials to be qualified as an MRO (see 40.121(a) through (b)) but who has not met training and/or documentation requirements (see 40.121(c) through (e));

f. The failure to directly observe or monitor a collection that the rule requires or permits to be directly observed or monitored, or the unauthorized use of direct observation or monitoring for a collection;

g. The fact that a test was conducted in a facility that does not meet the requirements of 40.41;

h. If the specific name of the courier on the CCF is omitted or erroneous;

i. Personal identifying information is inadvertently contained on the CCF (e.g., the employee signs his or her name on the laboratory copy); or

j. Claims that the employee was improperly selected for testing.

3. DGC, when these types of errors occur, even though not sufficient to cancel a drug test result, may subject DGC to enforcement action under DOT agency regulations.

SECTION VII – SPECIMEN COLLECTION REQUIREMENTS

The procedures contained herein shall be complied with by the designated collection sites.

Although this section isn't all-inclusive, all of the requirements of Subpart C, D, and E of Part 40 will be implemented.

DGC shall provide to the collectors the name and telephone number of the DPM to contact about any problems or issues that may arise during the testing process.

The collection site shall have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a certified drug testing laboratory designated by the company. An independent medical facility may also be utilized as a collection site provided the other applicable requirements of Appendix C are met.

A. Collection Site Personnel Training – Section 40.33

1. Knowledgeable about Section 40.33 of Part 40, the current "DOT Urine Specimen Collection Procedure Guidelines", and DOT agency regulations applicable to DGC for whom he/she performs collections. Rev. 1

2. Keep current on any changes to materials listed in A.1.

3. Receive qualification training in the following:

   a. Steps necessary to complete a collection correctly and the proper completion of the CCF. Rev. 1

   b. "Problem" collections (e.g., situations like shy bladder, attempts to tamper with specimen)

   c. Fatal flaws, correctable flaws and how to correct problem in collection.

   d. The collector responsibility for maintaining the integrity of the collection process, ensuring the privacy of the employee being tested, ensuring the security of the specimen, and avoiding conduct or statements that could be viewed as offensive or inappropriate.

4. Initial proficiency demonstration in collections by completing five consecutive error-free mock collections per Section 40.33 C.1, which are monitored and evaluated by a qualified collector who has demonstrated the necessary knowledge, skills, and abilities per Section 40.33 C.2.

5. Refresher training shall be every 5 years.

6. Maintain documentation showing that all requirements of 40.33 have been completed. Rev. 1

B. Collections Sites – Section 40.41

1. Collection site must include a facility for urination described as follows:

   a. The first, and preferred, type of facility for urination that a collection site may include is a single-toilet room, having a full-length privacy door, within which urination can occur.

   b. The second type of facility for urination that a collection site may include is a multi-stall restroom.

      - Such a site must provide substantial visual privacy (e.g., a toilet stall with a partial length door) and meet all other applicable requirements of this section.

   NOTE: A collection site may be in a medical facility, mobile facility (e.g., a van), a dedicated collection facility, or any other location meeting the requirement.

C. Collection Site Security – Section 40.43

1. Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets).

2. Ensure that the water in the toilet is blue.

3. Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present.

4. Inspect site to ensure that no foreign or unauthorized substances are present.

5. Tape or otherwise secure shut any movable toilet tank top or put bluing in the tank.

6. Ensure that undetected access is not possible.

7. Secure areas and items (e.g., ledges, trash receptacles, paper tower holders, under-sink areas) that appear suitable for concealing contaminants.

8. Avoid distraction that could compromise security by limiting collection for only one employee at a time. However, during the time one employee is in the period for drinking fluids in a "shy bladder" situation, you may conduct a collection for another employee.

9. Keep an employee's container within view of both you and the employee between the time the employee has urinated and the specimen is sealed.

10. Ensure you are the only person in addition to the employee who handles the specimen before it is poured into the bottles and sealed with tamper-evident seals.

11. Maintain personal control over each specimen and CCF throughout the collection process.

12. Prevent unauthorized personnel from entering any part of the site in which urine specimens are collected or stored.

13. Only employees being tested, collectors, and other collection site workers, DPM, employee and representatives authorized by DGC (e.g., DGC policy, collective bargaining agreement), and DOT agency representatives are authorized persons who may be in the collection site.

14. Except for the observer in a directly observed collection or the monitor in the case of a monitored collection, you must not permit anyone to enter the urination facility in which employees provide specimens.

15. Ensure all authorized persons are under the supervision of a collector at all times when permitted into the site.

16. The collector may remove any person who obstructs, interferes with, or causes a delay in the collection process.

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D. Documenting DOT Drug Collection – Subpart D, Section 40.45

1. The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT drug testing program. The CCF must be a five-part carbonless manifold form.

2. Do not use a non-Federal form or an expired Federal form to conduct a DOT urine collection.

3. You are not permitted to modify or revise the CCF except as follows:

   a. May include, in the area outside the border of the form, other information needed for billing or other purposes necessary to the collection process.

   b. CCF must include the names, addresses, telephone numbers and fax numbers of the employer and the MRO, which may be pre-printed, typed, or handwritten. The MRO information must include the specific physician's name and address, as opposed to only a generic clinic, health care organization, or company name. This information is required, and it is prohibited for an employer, collector, service agent or any other party to omit it. A C/TPA's name, address, fax number, and telephone number may be included, but is not required. The employer may use a C/TPA's address in place of its own, but must continue to include its name, telephone number, and fax number.

   c. As a collector, you may use a CCF with your name, address, telephone number, and fax number pre-printed, but under no circumstances may you sign the form before the collection event.

4. Under no circumstances may the CCF transmit personal identifying information about an employee (other than a social security number (SSN) or other employee identification (ID) number to a laboratory.

E. CCF Use for Non-Federal Collections – Subpart D, 40.47

1. Prohibited from using the CCF for non-Federal urine collections and also prohibited from using non-Federal forms for DOT urine collections.

2. In rare cases where the collector, either by mistake or as the only means to conduct a test under difficult circumstances (e.g., post-accident or reasonable suspicion test with insufficient time to obtain the CCF), uses a non-Federal form for DOT collection, the use of a non-Federal form does not present a reason for the laboratory to reject the specimen for testing or a MRO to cancel results.

3. The use of the non-Federal form is a "Correctable Flaw".

F. Materials Used to Collect Urine Specimens – Subpart D, Section 40.49

1. For each DOT drug test, a collection kit meeting the requirement of Appendix A of Part 40 shall be used.

G. Sending a Drug Test Specimen to the Laboratory – Section 40.51

1. Must use a shipping container that adequately protects the specimen bottles from shipment damage in the transport of specimens from the collection site to the laboratory.

H. Preliminary Steps in the Collection Process – Section 40.61

1. Ensure that, when the employee enters the collection site, begin the testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or is unable to urinate or because an authorized employer or employee representative is delayed in arriving.

2. If the employee is also going to take a DOT alcohol test, you must, to the greatest extent practicable, ensure that the alcohol test is completed before the urine collection process begins.

3. If the employee needs medical attention (e.g., an injured employee in an emergency medical facility who is required to have a post-accident test), do not delay this treatment to collect a specimen.

4. Must not collect, by catheterization or other means, urine from an unconscious employee to conduct a drug test. Nor may a conscious employee be catheterized. Must inform an employee who normally voids through self-catheterization that the employee is required to provide a specimen in that manner. If the employee declines to self-catheterization, this constitutes a refusal test.

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5. Require the employee to provide positive identification. You must see a photo ID issued by the employer (other than in the case of an owner-operator or other self-employed individual) or a Federal, state, or local government (e.g., a driver's license). You may not accept faxes or photocopies of identification. Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If

the employee cannot produce positive identification, contact DPM to verify the identity of the employee.

6. If the employee asks, provide your identification to the employee. Your identification must include your name and your employer's name, but does not have to include your picture, address, or telephone number.

7. Explain the basic collection procedure to the employee, including showing the employee the instructions on the back of the CCF.

8. Direct the employee to remove outer clothing (e.g., coveralls, jacket, coat, hat) that could be used to conceal items or substances that could be used to tamper with a specimen. Direct the employee to leave these garments and any briefcase, purse, or other personal belongings with you or in a mutually agreeable location. You must advise the employee that failure to comply with your directions constitutes a refusal to test.

   a. If the employee asks for a receipt for any belongings left with you, you must provide one.

   b. You must allow the employee to keep his or her wallet.

   c. You must not ask the employee to remove other clothing (e.g., shirts, pants, dresses, underwear), to remove all clothing, or to change into a hospital or examination gown.

9. Direct the employee to empty his or her pockets and display the items in them to ensure that no items are present which could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the employee can place the items back into his or her pockets. As the employee, you must allow the collector to make this observation.

10. If, in your duties you find any material that could be used to tamper with a specimen, you must:

    a. Determine if the material appears to be brought to the collection site with the intent to alter the specimen, and if it is, conduct a directly observed collection using direct observation procedures (Section 40.67).

    b. Determine if the material appears to be inadvertently brought to the collection site (e.g., eye drops), secure and maintain it until the collection process is completed and conduct a normal (i.e., unobserved) collection.

11. Instruct the employee not to list medications that he or she is currently taking on the CCF. (The employee may make notes of medications on the back of the employee copy of the form for his or her own convenience, but these notes must not be transmitted to anyone else.)

I. Specimen Collection (Collector) – Section 40.63

1. Complete step 1 of the CCF.

2. Instruct the employee to wash and dry his or her hands at this time and tell the employee not to wash his or her hands again until after delivering the specimen to the collector.

3. Select individually wrapped, sealed collection container from collection kit material.

4. Tell the employee not to take anything into the room used for urination except the collection container.

5. Direct the employee to provide a specimen of at least 45 ml, not to flush the toilet, and return to the collector with the specimen.

6. Pay careful attention to the employee during the entire collection process to note any conduct that clearly indicates an attempt to tamper with specimen. If such conduct is detected, a collection taken under direct observation per Section 40.67 must be performed and DPM or collection site supervisor informed.

J. Collector Responsibility in the Receipt of a Specimen – Section 40.65

1. The collector must check the following when the employee gives the collection container to you.

   a. Ensure the specimen contains at least 45 ml of urine and, if not, follow shy bladder procedures in Section 40.193(b).

   b. Never combine urine collected from separate voids to create a specimen.

   c. Discard any excess urine. When shy bladder procedure is implemented you must discard the original specimen unless another problem (i.e., temperature out of range, signs of tampering) also exists.

   d. Check the temperature of the specimen (acceptable range is 32-38 degrees C / 90-100 degrees F) no later than 4 minutes after the employee has given you the sample.

   e. Determine the temperature of the specimen by reading the temperature strip attached to the collection container.

   f. If the temperature is within acceptable range, mark the yes box on the CCF.

   g. If temperature is outside the acceptable range, mark the no box and enter your finding in the remarks line.

   h. If the specimen temperature is outside the acceptable range, a new collection must be conducted using the direct observation procedure (section 40.67).

   i. When direct observation is used because of temperature being out of range, both the original specimen and the specimen collected using direct observation must be processed and sent to the laboratory. Must also inform the DPM of the direct observation and the reason why.

j. Inspect the specimen for unusual color, presence of foreign objects or materials, or other signs of tampering.

k. If the employee refuses to provide a specimen under direct observation (section 40.191(a)(4)), you must discard any specimen the employee provided previously during the collection procedure and notify the DPM as soon as practicable.

K. Specimen Preparation – Section 40.71

1. All collections for DOT drug testing will be split specimens.
2. Check the box on the CCF indicating that this was a split specimen.
3. Pour at least 30 ml of urine from the collection container into one specimen bottle to be used for the primary specimen.
4. Pour at least 15 ml of urine into the second specimen bottle to be used for the split specimen.
5. Place and secure the lids/caps on the bottles.
6. Seal the bottle by placing the tamper evident bottle seals over the bottle caps/lids and down the sides of the bottles.
7. Write the date on the tamper evident bottle seals and ensure the employee initials the tamper-evident bottle seals.
8. Discard any urine left over in the collection container.

L. Completing the Collection Process – Section 40.73

1. Direct the employee to read and sign the certification statement on copy 2 of the CCF and provide date of birth, printed name, and day and evening contact phone number.
2. Complete the chain of custody on the CCF by printing your name, recording the time and date of the collection, signing the statement and entering the name of the delivery service transferring the specimen to the laboratory.
3. Remove copy 5 of the CCF and give it to the employee.
4. Prepare specimen for shipping and include copy 1 of the CCF.
5. Send copy 2 of the CCF to the MRO and copy 4 to the DPM.
6. Specimen must be shipped within 24 hours or during the next business day.

M. DOT's Direct Observation Procedures

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1. Directly Observed Collections

a. The employee attempts to tamper with his or her specimen at the collection site.

- The specimen temperature is outside the acceptable range.
- The specimen shows signs of tampering (unusual color, odor, characteristic).
- The collector finds an item in the employee's pockets or wallet which appears to be brought into the site to contaminate a specimen or the collector notes conduct suggesting tampering.

b. The Medical Review Officer (MRO) orders the direct observation because:

- The employee has no legitimate medical reason for certain atypical laboratory results.
- The employee's positive or refusal (adulterated/substituted) test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected).

c. The test is a follow-up test or a return-to-duty test.

2. The observer must be the same gender as the employee.

3. If the collector is not the observer, the collector must instruct the observer about the procedures for checking the employee for prosthetic or other devices designed to carry "clean" urine and urine substitutes AND for watching the employee urinate into the collection container.

   a. The observer request the employee to raise his or her shirt, blouse or dress/skirt, as appropriate, above the waist, just above the navel; and lowering clothing and underpants to mid-thigh and show the observer, by turning around, that the employee does not have such a device.

   b. If the employee has a device: The observer immediately notifies the collector; the collector stops the collection; and the collector thoroughly documents the circumstances surrounding the event in the remarks section of the CCF. The collector notifies the DER. This is a refusal to test.

   c. If the employee does not have a device: The employee is permitted to return clothing to its proper position for the observed collection. The observer must watch the urine go from the employee's body into the collection container. The observer must watch as the employee takes the specimen to the collector. The collector then completes the collection process.

4. Failure of the employee to permit any part of the direct observation procedure is a refusal to test.

SECTION VIII – DRUG TESTING LABORATORY

A. NIDA Laboratory

1. DGC shall use a drug testing laboratory certified by HHS under the National Laboratory Certification Program (NLCP) as meeting the minimum standards of Subpart C of the Mandatory Guidelines for Workplace Drug Testing Programs.

2. The name and address of each NIDA laboratory used by the company is contained in Appendix A.

B. Laboratory Procedures

1. Testing

a. Testing shall be in accordance with 49 CFR Part 40, Subpart "F".

b. Laboratory shall be certified by HHS under the National Laboratory Certification Program (NLCP).

c. Processing of incoming specimens shall be in accordance with Section 40.28 of Subpart "F".

d. Cut-off concentrations for initial and confirmation tests shall be per Section 40.87.

e. Validity tests must be performed on each primary specimen in accordance with Section 40.91 of Subpart "F".

f. The following section of Subpart "F" shall be used to establish criteria for diluted, substituted or adulterated specimens:

- Diluted, substituted – Section 40.93
- Adulterated – Section 40.95

g. The laboratory shall not perform any test on DOT urine specimen other than those specifically authorized by 49 CFR Subpart 40, Section 40.85 or DOT agency regulation.

2. Reporting Results

a. Laboratory results must be reported directly and only to the MRO at his or her place of business. Results must not be reported to or through the DER or a service agent.

b. The laboratory shall report test results to the company's MRO within an average of 5 working days after receipt of specimen by the laboratory.

c. Before any result is reported, it shall be reviewed and the test certified as accurate by the laboratory certifying scientist.

d. Laboratory test results for each primary specimen shall be reported as follows:

- Negative
- Negative – dilute
- Rejected for testing with remarks
- Positive with drug(s) / metabolite(s) noted
- Positive with drug(s) / metabolite(s) noted – diluted
- Adulterated with remarks
- Substituted with remarks
- Invalid result with remarks

e. If the laboratory results report is provided, the report shall include, as a minimum:

- Laboratory name/address
- Employer name
- MRO name
- Specimen ID number
- Donor's SSN or employee ID number
- Reason for test (if provided)
- Collector's name and telephone number
- Date of collection
- Date received at the laboratory
- Date certifying scientist released the results
- Certifying scientist's name
- Results listed as in B.4

f. Laboratory results are released only after review and approval by the certifiying scientist.

g. The laboratory results report must reflect the same test result information as contained on the CCF signed by the certifying scientist.

h. Information contained in the laboratory result report may not contain information that does not appear on the CCF.

i. The laboratory must transmit test results to the MRO in a timely manner, preferably the same day that review by the certifying scientist is completed.

j. The laboratory must provide quantitative values for confirmed positive drug, adulterated, and substituted test results to the MRO when requested to do so by the MRO in writing.

3. Negative and Non-negative Results

- The laboratory shall transmit a legible image or copy of the fully completed Copy 1 of the CCF, which has been signed by the certifying scientist. The laboratory may transmit results to the MRO by various means (e.g. fax, courier, mail, or electronically). Results may not be provided verbally by telephone. The laboratory, MRO, TPA and DGC must ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.

4. Laboratory / MRO

   a. The laboratory shall not enter into any relationship with a MRO that creates a conflict of interest or the appearance of a conflict of interest with the MRO's responsibilities to DGC.

   b. Examples of conflict:

      - Laboratory employs a MRO who reviews test results produced by the laboratory.
      - Laboratory designates which MRO the employer is to use, gives the employer a slate of MROs from which to choose, or recommends certain MROs.
      - Laboratory gives the employer a discount or other incentive to use a particular MRO.
      - Etc.

5. Laboratory Inspection

   a. The laboratory must permit an inspection with or without prior notice by the Office of Drug and Alcohol Policy and Compliance (ODAPC), DOT agency, or DGC or their TPA.

6. Statistical Summaries

   a. The laboratory shall transmit a statistical summary of the data listed in Appendix B of Part 40 to DGC or their designee on a semi-annual basis on the dates specified in Section 40.111.

7. Retention of Specimen

   a. Positive, adulterated, substituted, or invalid results shall be retained for a minimum of one year.

      (1) Laboratory must keep specimen in a secure, long-term, frozen storage in accordance with HHS requirements.

      (2) The MRO, employee, employer, or DOT agency may request, in writing, that you retain specimen for an additional period of time.

      (3) The laboratory shall retain specimens known to be under legal challenge for an indefinite period of time.

   b. If the split specimen has not been sent to another laboratory for testing, you must retain the split specimen for an employee's test for the same period of time as the primary specimen and under the same storage conditions.

8. Documentation Retention

   a. The laboratory must retain all records pertaining to each employee urine specimen for a minimum of two (2) years.

b. The laboratory must also keep for two (2) years DGC specific data required by Section 40.111 of Subpart "F".

c. The MRO, employee, DGC, or DOT agency may request in writing that records are retained for an additional time period.

SECTION IX – RETESTING OF SAMPLES (SPLIT SPECIMENS)

The following subparts of Part 40 shall be followed:

Subpart "G", Section 40.153
Subpart "H"

A. General

An employee/applicant may request by telephone or in writing to the MRO a re-test of the sample within 72 hours of notification of a positive test result from the MRO. The MRO must have the ability to receive the employee calls at all times during the 72-hour period (e.g., by use of an answering machine with a time stamp feature when there is no one in the office to answer the phone).

1. If an employee has not requested a test of the split specimen within 72 hours, he/she may present to the MRO information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented him/her from making a timely request.

B. Re-test Provisions

The employer must ensure that the test takes place and the employee is not required to pay for the test from his or her own funds before the test takes place. DGC may seek reimbursement for the cost of the test.

C. Split Specimen Testing

The MRO must immediately provide written notice to the laboratory that tested the primary specimen, directing the laboratory to forward the split specimen to a second HHS-certified laboratory.

When written notice is received from the MRO instructing the first laboratory to send the split specimen to another HHS certified laboratory, the first laboratory shall forward the following items to the second laboratory:

1. The split specimen in its original specimen bottle with the seal intact.

2. A copy of the MRO's written request.

3. A copy of copy 1 of the CCR, which identifies the drugs/metabolites or the validity criteria to be tested for.

4. If the MRO concludes from the employee's information that there was a legitimate reason for the employee's failure to contact him within 72 hours, the MRO must direct that the test of the split specimen take place, just as you would when there is a timely request.

5. DGC is responsible for making sure that the MRO, first laboratory, and second laboratory perform the functions noted in Sections 40.175 – 40.185 in a timely manner, once the employee has made a timely request for a test of the split specimen.

6. First laboratory must not send to the second laboratory any information about the identify of the employee. Inadvertent disclosure does not, however, cause a fatal flaw.

7. The second laboratory must test the split specimen for the drug(s) / drug metabolite(s) detected in the primary specimen.

8. If the test fails to reconfirm the presence of the drug(s) / drug metabolite(s) that were reported in the primary specimen, you may send the specimen or an aliquot of it for testing at another HHS-certified laboratory that has the capability to conduct another reconfirmation test. Rev. 2

9. For testing to reconfirm an adulterated test result, Subpart H, Section 40.179 shall be followed.

10. For testing to reconfirm a substituted test result, Subpart H, Section 40.181 shall be followed.

11. The laboratory must report split specimen test results directly, and only, to the MRO at his or her place of business. Must not reports results to or through the DPM or another service agent (e.g., a C/TPA). Rev. 2

12. Must fax, courier mail, or electronically transmit a legible image or copy of the fully completed copy 1 of the CCF, which has been signed by the certifying scientist.

13. Must transmit the laboratory result to the MRO immediately, preferably on the same day or the next business day as the result is signed and released.

14. Upon receipt of split specimen test results, the MRO shall follow the requirement set forth in Subpart "H", Section 40.187.

SECTION X – BLIND PERFORMANCE TEST PROCEDURES

A. General

1. DGC shall use blind testing quality control procedures as provided in this section.

2. The Plan Administrator will submit one blank sample per testing year.

B. Investigations and False Positive

1. RSPA shall investigate, or shall refer to DHHS for investigation, any unsatisfactory performance testing result and, based on this investigation, the laboratory shall take action to correct the cause of the unsatisfactory performance test result. A record shall be made of the investigative findings and the corrective action taken by the laboratory, and that record shall be dated and signed by the individual responsible for the day-to-day management and operation of the drug testing laboratory. RSPA shall send the document to the company as a report of the unsatisfactory performance testing incident. RSPA shall ensure notification of the finding to DHHS.

2. Should a false positive error occur on a blind performance test specimen and the error is determined to be an administrative error (clerical, sample mix-up, etc.), the company/medical contractor shall promptly notify RSPA. RSPA and the company/medical contractor shall require the laboratory to take corrective action to minimize the occurrence of the particular error in the future, and, if there is reason to believe the error could have been systemic, RSPA may also require review and re-analysis of previously run specimens.

3. Should a false positive error on a blind performance test specimen and the error is determined to be a technical or methodological error, the company/medical contractor shall instruct the laboratory to submit all quality control data from the batch of specimens which included the false positive specimen to RSPA. In addition, the laboratory shall re-test all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This re-testing shall be documented by a statement signed by the individual responsible for day-to-day management of the laboratory's urine drug testing. RSPA may require an on-site review of the laboratory, which may be conducted unannounced during any hours of operation of the laboratory. DHHS has the option of revoking or suspending the laboratory's certification or recommending that no further action be taken if the case is one of less serious error in which corrective action has already been taken, thus reasonably assuring that the error will not occur again.

SECTION XI – EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Scope of Program

The EAP will provide education and training on drug use to all employees. The education shall include:

1. Informational material distributed to employees, displayed on bulletin boards, employee break rooms, locker rooms, etc.

2. An EAP telephone number for employee assistance provided in the Employee Guidelines.

3. Distribution of the Company's policy regarding the use of prohibited drugs to all new employees.

B. Supervisor Training

1. Supervisory personnel responsible for those employees covered under Part 199 or Part 382 will receive training under the anti-drug plan. The training shall include at least one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use. This training shall be for supervisors who may determine whether an employee must be drug tested for reasonable cause. Refresher training shall be provided every three years. Rev. 2

   NOTE: Training and records to be performed/maintained by DGC Human Resources. Rev. 2

SECTION XII – CONTRACTOR EMPLOYEES

A. General

DGC shall include a clause in the gas and CO_2 pipeline contracts that drug testing, education, and training shall be addressed by the contractor in accordance with Part 199, Part 382, and Part 40 for covered functions.

1. DGC remains responsible for ensuring compliance with the requirements of Parts 199 and 40.

B. Records and Access

Contractors shall retain copies of appropriate records required by Part 199, Part 382, and Part 40. The records and access to the contractor's property shall be readily accessible for inspection by DGC, RSPA, and representatives of those state agencies under which jurisdiction DGC operates.

C. Qualifying Potential Contractor

Qualifications of the potential contractor as pertains to drug testing policies/procedures is assured by requesting the potential contractor to submit a copy of its anti-drug plan for review and compliance with RSPA/DOT regulations. After review of the anti-drug plan is completed, written correspondence to the contractor will advise it whether or not the plan is acceptable or in need of further additions, deletions, revisions or clarifying language. The review of the contractor plan shall be completed utilizing the criteria established in the RSPA Headquarters Drug Inspection form and the DOT Part 40 Drug Inspection forms. Addendums made to the contractor's plan shall be attached to the previously submitted plan. Upon approval of the addendums, a letter of acceptance is then sent to the contractor. The contractor is now eligible to bid on company contract work that would be covered under Part 199 and Part 40.

D. Monitoring Contractor's Compliance

The contractor may be required to provide information on their employees who will perform covered functions for the operator. This information may include the name and job title of its employees who will perform any work or functions covered by Part 199 under that contract. A list of each contractor's covered employees may be distributed to appropriate company representatives.

1. All contractors will be required to submit drug testing statistical information on a periodical basis, which may be based on the duration of this contract. This shall consist of quarterly statistics.

E. Contractor Coverage

1. DGC may, at its discretion, and as an alternative to the above guidance, provide coverage for the contractor's employees by including them in DGC's drug testing program and random pool for the duration of the contract.

2. DGC will maintain a complete file on each contractor's statistical drug testing data reports.

SECTION XIII – RECORDKEEPING PROCEDURES

A. General

1. The DPM (or designee) shall maintain a locked file system, which will contain drug test results. This file shall be maintained as "Confidential". Employee files shall be handled on strict "need to know" basis.

2. Drug test results shall not be included in personnel files. Information regarding an individual's drug testing result or rehabilitation may be released only upon written consent of the individual, except:

   a. Such information must be released regardless of consent to RSPA, FHA or other governmental agencies as part of an accident investigation;

   b. Such information may be disclosed regardless of consent in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual and arising from a verified positive drug test.

3. Any employee who is the subject of a drug test conducted under this policy, shall, upon written request, have access to any records relating to his or her drug test and any records relating to the results of any relevant certification, review, or revocation of certification proceedings.

B. Statistical Data

Statistical data related to drug testing and rehabilitation that is non-name-specified and training records may be released to RSPA, FHA, or other governmental agencies upon request.

C. Record Retention

The records that must be maintained are:

1. Records that demonstrate the collection process shall be retained for a 3-year period.

2. Employee drug test results that show positive and test type (pre-employment test, random test, post-accident test, or post-rehabilitation test), and records that demonstrate rehabilitation (including the MRO's determination). These records shall be retained for a five-year period and must include the following information:

   a. Function performed by each employee who had a positive drug test result

   b. Prohibited drug(s) used

   c. Disposition of employee (i.e., rehab, suspension, termination, etc.) who had a positive drug test or refused a drug test

   d. Records of driver verified positive controlled substance test results

e. Documentation of refusals to take required drug tests (including substituted or adulterated drug test results)

3. Copy of each annual calendar year summary required by Part 382.403 shall be maintained for five (5) years.

4. Employee drug tests that demonstrate negative results and cancelled drug test results shall be retained for a period of one year.

5. A record indicating the total number of employees tested and the results of tests separated into categories shall be retained for a five-year period.

6. Training records confirming that supervisors and employees have been trained as required under 199.113 and copies of training material used shall be retained for a three-year period.

7. Records obtained from previous employer under Section 40.25 concerning drug test results of employees shall be kept for 3 years.

SECTION XIV – REPORTING OF ANTI-DRUG TESTING RESULTS

General

A. DGC will submit an annual MIS report to RSPA of it's anti-drug testing results in the form and manner prescribed by the administrator, not later than March 15 of each year for the prior calendar year (January 1 through December 31).

B. The report shall be submitted as follows:

1. Submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Program Administration, Dept. of Transportation Room 2335, 400 Seventh Street SW, Washington, DC 20590.

2. Each report shall be signed by the DGC Drug Program Manager (DPM) or designee.

3. The DGC report shall include verified positive test results or refusal to test and shall include all of the following information:

   a. Number of covered employees

   b. Number of covered employees subject to testing under the anti-drug rules of another administration

   c. Number of specimens collected by type of test

   d. Number of positive tests verified by MRO by type of test and type of drug

   e. Number of employee action(s) taken following verified positive(s), by type of action(s)

   f. Number of negative tests reported by an MRO by type of test

   g. Number of covered employees returned to duty during the reporting period after having failed or refused a drug test

   h. Number of covered employees with tests verified positive by MRO for multiple drugs

   i. Number of covered employees who refused to submit to random or non-random (post-accident, reasonable cause, return-to-duty, or follow-up) drug tests and the action taken in response to each refusal

   j. Number of supervisors who have received required initial training for determining whether an employee must be drug tested

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4. For negative test results, report shall include all of the following:

   a. Number of covered employees

   b. Number of covered employees subject to testing under the anti-drug rules of another operating administration

c. Number of specimens collected by type of test

d. Number of negative tests reported by an MRO by type of test

e. Number of covered employees who refused to submit to random or non-random drug tests

f. Number of supervisors who have received required initial training during the reporting period

C. Contractor

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1. Reporting Contractor Drug Annual Data

a. Obtain the number of contract employees who performed operation, maintenance or emergency response covered functions.

b. Determine the type of tests performed.

- Pre-employment, random, accident, etc.

c. Obtain the business tax identification number (BTIN).

d. Contractor shall be identified both by name and BTIN in the MIS report.

e. Include the number of contractor employees with the number of operator employees.

D. For Part 382 the requirements of 382.403 shall be reported if required by the Federal Highway Administration (FHA). The report shall be accurate and received by March 15 at the location specified by FHA.

APPENDIX A
DRUG PERSONNEL AND SERVICES

1. Drug Program Manager (DPM)

   Dakota Gasification Company
   Deb Haga (701) 873-6896

2. Third-Party Administrator

   Jennifer McGregor
   Third-Party Administrator
   MedCenter One Occupational Health
   1833 East Bismarck Expressway
   Bismarck, ND 58504 Rev. 2

3. Medical Review Officer (MRO)

   Dr. Ron Tello
   Medical Review Officer
   MedCenter One Occupational Health
   300 North Seventh Street
   Bismarck, ND 58501

4. National Institute on Drug Abuse (NIDA) Laboratory

   Kroll Rev. 2
   1111 Newton Street
   Gretna, LA 70053

5. Employee Assistance Program (EAP)

   St. Alexius Medical Center
   900 East Broadway
   Bismarck, ND 58506
   1-800-327-7195

APPENDIX B
EMPLOYEE / SUPERVISORY POSITIONS SUBJECT TO DRUG TESTING

A. The following are some job classifications included in the drug testing program:

1. Protection Services
2. Operation Field Technician
3. Maintenance Field Technician
4. Operations Management
5. Maintenance Management
6. Engineers
7. Inspectors
8. BEPC Security and Response Services Rev. 3
9. Any contractor who may provide any services on any portion of Dakota Gasification Company's SNG or CO_2 pipeline system

APPENDIX C
POST-ACCIDENT TESTING PER PART 382

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed By Employer
Human fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

APPENDIX D
COLLECTION KIT CONTENTS

(Meet requirements of Appendix A to Part 40.)

A. Collection Container

1. Single-use container, made of plastic, large enough to easily catch and hold at least 55 mL of urine voided from the body.

2. Must have graduated volume markings clearly noting levels of 45 mL and above.

3. Must have a temperature strip providing graduated temperature readings 32-38 degrees C / 90-100 degrees F, that is affixed or can be affixed at a proper level on the outside of the collection container. Other methodologies (e.g., temperature device built into to the wall of the container) are acceptable provided the temperature measurement is accurate and such that there is no potential for contamination of the specimen.

4. Must be individually wrapped in a sealed plastic bag or shrink wrapping; or must have a peelable, sealed lid or other easily visible tamper-evident system.

5. May be made available separately at collection sites to address shy bladder situations when several voids may be required to complete the testing process.

B. Plastic Specimen Bottles

1. Each bottle must be large enough to hold at least 35 mL; or alternatively, they may be two distinct sizes of specimen bottles provided that the bottle designed to hold the primary specimen holds at least 35 mL of urine and the bottle designed to hold the split specimen holds at least 20 mL.

2. Must have screw-on or snap-on caps that prevent seepage of the urine from the bottles during shipment.

3. Must have markings clearly indicating the appropriate levels (30 mL for the primary specimen and 15 mL for the split) of urine that must be poured into the bottle.

4. Must be designed so that the required tamper-evident bottle seals made available on the CCF fit with no damage to the seal when the employee initials it nor with the chance that the seal overlap would conceal printed information.

5. Must be wrapped (with caps) together in a sealed plastic bag or shrink wrapping separate from the collection container; or must be wrapped (with cap) individually in sealed plastic bags or shrink wrapping; or must have peelable, sealed lid or other easily visible tamper-evident system.

6. Plastic must be leach resistant.

C. Leak-Resistant Plastic Bag

1. Must have two sealable compartments or pouches which are leak-resistant; one large enough to hold two specimen bottles and the other large enough to hold the CCF paperwork.

2. The sealing methodology must be such that once the compartments are sealed, any tampering or attempts to open either compartment will be evident.

D. Absorbent Material

1. Each kit must contain enough absorbent material to absorb the entire contents of both specimen bottles. Absorbent material must be designed to fit inside the leak-resistant plastic bag pouch into which the specimen bottles are placed.

APPENDIX E
DRUG COLLECTION SITE

DGC Medical Services Department
420 County Road 26
Beulah, ND 58523

Sakakawea Medical Center
510 8th Avenue NE
Hazen, ND 58545

MedCenter One Occupational Health
1833 East Bismarck Expressway
Bismarck, ND 58504

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APPENDIX F
TRAINED SUPERVISORS

A. The following company personnel have been trained as required for making reasonable cause determination:

1. Supervision (all applicable departments)
2. Area Superintendents
3. Department Management
4. Pipeline Operations Technicians

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APPENDIX G
REASONABLE CAUSE OBSERVATION CHECKLIST

REASONABLE CAUSE OBSERVATION CHECKLIST
(STRICTLY CONFIDENTIAL)

EMPLOYEE _____ **PERIOD OF EVALUATION** _____

SUPERVISOR #1, NAME & TELEPHONE _____

SUPERVISOR #2, NAME & TELEPHONE _____

This checklist is intended to assist a supervisor in referring a person for drug testing. Has the employee manifested any of the following behaviors? Indicate (D) if documentation exists.

A. QUALITY AND QUANTITY OF WORK

YES	NO		
_____	_____	1.	Clear refusal to do assigned tasks.
_____	_____	2.	Significant increase in errors.
_____	_____	3.	Repeated errors in spite of increased guidance.
_____	_____	4.	Reduced quantity of work.
_____	_____	5.	Inconsistent, "up and down" quantity/quality of work.
_____	_____	6.	Behavior that disrupts workflow.
_____	_____	7.	Procrastination on significant decisions or tasks.
_____	_____	8.	More than usual supervision necessary.
_____	_____	9.	Frequent, unsupported explanations for poor work performance.
_____	_____	10.	Noticeable change in written or verbal communication.
_____	_____	11.	Other (please specify) _____

B. INTERPERSONAL WORK RELATIONSHIPS

YES	NO		
_____	_____	1.	Significant change in relations with co-workers, supervisors.
_____	_____	2.	Frequent or intense arguments.
_____	_____	3.	Verbal/physical abusiveness.
_____	_____	4.	Persistently withdrawn or less involved with people.
_____	_____	5.	Intentional avoidance of supervisor.
_____	_____	6.	Expressions of frustration or discontent.
_____	_____	7.	Change in frequency or nature of complaints.
_____	_____	8.	Complaints by co-workers or subordinates.
_____	_____	9.	Cynical, "distrustful of human nature" comments.
_____	_____	10.	Unusual sensitivity to advice or critique of work.
_____	_____	11.	Unpredictable response to supervision.
_____	_____	12.	Passive-aggressive attitude or behavior, doing things "behind your back".

C. GENERAL JOB PERFORMANCE

YES	NO		
_____	_____	1.	Excessive unauthorized absences – number in last 12 months.
_____	_____	2.	Excessive authorized absences – number in last 12 months.
_____	_____	3.	Excessive use of sick leave in last 12 months.
_____	_____	4.	Frequent Monday/Friday absence or other pattern.
_____	_____	5.	Excessive "extension" of breaks or lunch.
_____	_____	6.	Frequently leaves work early – number of days per week or month.
_____	_____	7.	Increased concern about (actual incidents) safety offenses involving the employee.
_____	_____	8.	Experiences or causes job accidents.
_____	_____	9.	Interferes with or ignores established procedures.
_____	_____	10.	Inability to follow through on job performance recommendation.

D. PERSONAL MATTERS

YES	NO		
_____	_____	1.	Changes in or unusual personal appearance (dress, hygiene).
_____	_____	2.	Changes in or unusual speech (incoherent, stuttering, loud).
_____	_____	3.	Engages in detailed discussions about death, suicide, harming others.
_____	_____	4.	Increasingly irritable or tearful.
_____	_____	5.	Unpredictable or out-of-context displays of emotion.
_____	_____	6.	Unusual fears or lacks appropriate caution.
_____	_____	7.	Engages in detailed discussion about obtaining/using drugs/alcohol.
_____	_____	8.	Has personal relationship problems (spouse, girl/boyfriend, children, in-laws).
_____	_____	9.	Has received professional assistance for emotional or physical problems.
_____	_____	10.	Makes unfounded accusations toward others, i.e., has feelings of persecution.
_____	_____	11.	Secretive or furtive.
_____	_____	12.	Memory problems (difficulty recalling instructions, data, past behaviors).
_____	_____	13.	Frequent colds, flu, excessive fatigue, or other illnesses.
_____	_____	14.	Temper tantrums or angry outbursts.
_____	_____	15.	Major change in physical health.

Other information/observations (please be specific, attach additional sheet as needed).

SUPERVISOR #1 – DATE _____

SUPERVISOR #2 – DATE _____