



Hildale/Colorado City Gas Department

Anti-Drug and Alcohol Misuse Prevention Policy

**U.S. Department of Transportation Pipeline & Hazardous
Materials Safety Administration (PHMSA) Regulations**

49 CFR Parts 40 & 199

Implementation: May 2001

Revision: August 23, 2024

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PHMSA Drug and Alcohol Testing Policy

1.0 Background/Introduction

Hildale/Colorado City Gas Department (HCCGD) adopted this Anti-drug and Alcohol Misuse Prevention Program to help prevent accidents and injuries resulting from the use of controlled substances and the misuse of alcohol by employees who perform covered functions. HCCGD has also adopted this policy to follow applicable Federal Regulations.

Operators of pipeline facilities subject to 49 CFR Parts 192, 193, and/or 195 are required to test covered employees for the presence of prohibited drugs and alcohol. Pipeline operators are also required to ensure that contractors follow Part 199 and Part 40. This policy has been designed to bring contractor companies into compliance with that requirement.

1.1 Applicability

This policy applies to pipeline operators and their covered employees (to include contractor companies) only with respect to covered employees and (contractor companies) located within the territory of the United States, including those covered employees located within the limits of the “Outer Continental Shelf “ as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

In addition, under Hildale/Colorado City Gas Department’s Policy and DOT Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations, a “covered employee” means any person who performs a covered (i.e., safety-sensitive) function on a pipeline or Liquefied Natural Gas (LNG) facility. Such person may be employed directly by the operator, or by a contractor engaged by the operator.

For purposes of this Policy, a “covered” or “safety-sensitive” function means an operations, maintenance or emergency response function that is performed on a pipeline or LNG facility regulated by Parts 192, 193 or 195. A covered employee is performing a covered function during any period in which he or she is performing, ready to perform, or immediately available to perform such covered functions. Clerical, truck driving, accounting or other job functions not covered by Parts 192, 193 or 195 are not subject to the regulations.

All applicants or transferees for positions as a covered employee or to perform a covered function are subject to and will be notified of Hildale/Colorado City Gas Department’s Drug and Alcohol Testing Policy (DFWP) at the time they apply for the position.

1.2 DOT Procedures

The anti-drug and alcohol program required by this Policy must be conducted per the requirements of 49 CFR Part 40 procedures and 49 CFR Part 199. Components of Hildale/Colorado City Gas Department’s program include clear policies, provisions for education and training, drug and alcohol testing, and when needed, referral for evaluation, education, and treatment. HCCGD shall ensure that all covered employees are aware of the provisions and coverage of this plan. If HCCGD employs a Consortium/Third-Party Administrator (C/TPA) to assist in program development, implementation, and management, the C/TPA will, likewise, follow all the requirements of Part 40 and Part 199.

1.3 Stand-Down Waivers

HCCGD is not permitted under the authority of the DOT regulations to “stand down” an employee prior to receiving the test result from the MRO. However, HCCGD may request a waiver of this policy by a direct appeal to DOT. A waiver, if granted, permits HCCGD to stand down an employee following the MRO’s receipt of a laboratory report of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test pertaining to the employee. For further details, refer to 49 CFR Part 40, §40.21.

1.4 Preemption of State and Local Laws

Except as provided in the last paragraph preempts any State or local law, rule, regulation, or order to the extent that:

- a) Compliance with both the State or local requirement and Part 199 is not possible;
- b) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement of Part 199; or
- c) The State or local requirement is a pipeline safety standard applicable to interstate pipeline facility(s).

Part 199 shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation covered employees or HCCGD or to the public.

2.0 Definitions

(Definitions found in Parts 40, 191, 192, 193, 195, & 199 are also incorporated by reference to this policy).

Accident – (§195.50)

An accident report is required for each failure in a pipeline system subject to this part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

- (a) Explosion or fire not intentionally set by the operator.
- (b) 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:
 - (1) Not otherwise reportable under this section;
 - (2) Not one described in § 195.52(a)(4);
 - (3) Confined to company property or pipeline right-of-way; and
 - (4) Cleaned up promptly;
- I Death of any person;
- (d) Personal injury necessitating hospitalization;
 - I Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

Administrator – The Administrator of the Pipeline and Hazardous Materials Safety Administration or his or her delegate.

Covered employee, employee, or individual to be tested (or applicant) – A person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors.

Covered Function – An operations, maintenance, or emergency-response function regulated by Parts 192, 193, or 195 that is performed on a pipeline or on an LNG facility.

C/TPA – A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for purposes of Part 40.

Designated Employer Representative (DER) – An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of Part 40. Service agents cannot act as DERs.

DOT Procedures – The procedures for transportation workplace drug and alcohol testing programs published by the Office of Secretary of Transportation in 49 CFR Part 40.

Employee Assistance Program – A confidential counseling and support service provided by employers to help employees deal with personal or work-related problems that may impact their job performance, health, or well-being. EAPs typically offer assessment, short-term counseling, and referral services for issues such as stress, mental health concerns, substance abuse, family problems, and other personal challenges.

Incident – (§191.3) means any of the following gas events:

- 1) An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility, liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:
 - a. A death, or personal injury necessitating in-patient hospitalization.
 - b. Estimated property damage meeting or exceeding PHMSA Annual Rate set 07/01 of the current year (see Part 191 Appendix A), including loss to the operator and others, or both, but excluding cost of gas lost.
 - c. Unintentional estimated gas loss of three million cubic feet or more.
- 2) An event that results in an emergency shutdown of an LNG facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.
- 3) An event that is significant in the judgement of the operator, even though it did not meet the criteria of paragraphs (i) or (ii) of this definition.

Operator – A person who owns or operates pipeline facilities subject to Parts 192, 193, or 195.

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.

Performs a Covered Function – Includes performing, ready to perform, or immediately available to perform a covered function.

Pipeline or Pipeline System – All parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

Pipeline Facility – New and existing piping, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during transportation.

Positive Rate for Random Drug Testing – The number of verified positive results for random drug tests conducted under this policy plus the number of refusals of random drug tests required by this policy, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) required by this policy.

Prohibited Drug – Any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opioids, amphetamines, and phencyclidine (PCP).

Refuse to Submit, Refuse, or Refuse to Take – A behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test.

State Agency – An agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq).

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.

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3.0 Key Roles and Responsibilities

Hildale/Colorado City Gas Department will convey to responsible individuals – the Designated Employer Representative(s) and affected supervisors – that, to the best of their ability, the privacy and confidentiality of any covered safety-sensitive employee subject to the Plan must be maintained at all times. Exhibit A contains the name, address, and phone number of the responsible individual(s) who ensures adherence to this policy will be met.

3.1 Designated Employer Representative

The Company DER, Shiley Zitting, is responsible for the preparation of this Policy which complies with requirements of the Department of Transportation regulations as set forth in 49 CFR Parts 199 and 49 CFR Part 40. The DER is responsible for:

- a) providing oversight and evaluation on the plan;
- b) providing guidance and counseling;
- c) reviewing of all discipline applied under this plan for consistency and conformance to human resources policies and procedures; scheduling for types of testing (random, post-accident, reasonable suspicion, etc.);
- d) maintaining a locked file system on all test results; and
- e) overseeing the referral of employees for evaluation and treatment.

3.2 Supervisor

A Company individual(s) who is responsible for observing the performance and behavior of employees that is suggestive enough to lead to reasonable suspicion/cause drug and/or alcohol testing. Supervisors who will determine whether an employee must be drug tested and/or alcohol tested based on reasonable suspicion/cause will be trained in the “signs and symptoms” of each substance. The supervisor is required to document a reasonable suspicion/cause event. The supervisor may also be responsible for requests as the second supervisor for substantiation and concurrence for reasonable suspicion/cause drug test, if applicable.

3.3 Responsibilities of Covered Employees

Each covered safety-sensitive employee must comply with the requirements of the Plan, and the DOT drug and alcohol rules it pertains to; in order to remain eligible to work in a DOT covered safety-sensitive position. Each covered safety-sensitive employee has the responsibility to read, be knowledgeable of, and comply with, the requirements of the Plan, and Parts 40 and 199. Committing a DOT violation will result in the employees’ immediate removal from the covered function and remain so until successfully completing the DOT return-to-duty conditions of Part 40. The Plan describes circumstances for being tested, violations, prohibited conduct and their subsequent consequences. The Plan describes what is available to each covered safety-sensitive employee as services (e.g., EAP) in such cases where the employee has a potential problem with drugs or alcohol prior to a drug or alcohol test. It is a condition of employment for all covered safety-sensitive employees to sign the Acknowledgement/Receipt Form (Exhibit B). In doing so, the employee attests to comply with the drug and alcohol program requirements of Hildale/Colorado City Gas Department and the requirements of the Plan. Failure to comply with this condition may result in disciplinary action up to and including termination.

3.4 Service Agents

Hildale/Colorado City Gas Department may contract with service agents to accomplish many of the requirements of Parts 40 and 199. Exhibit A (Designated Personnel and Service Agents) provides the names and addresses of service agents that are under contract. Service agents, including C/TPA's, will comply with Parts 40 and 199 in the services provided. The work of any service agent providing services to Hildale/Colorado City Gas Department will be open to inspection by HCCGD. The service agent must allow access to property and records by the operator, the Administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of Part 199. No service agent will serve as DER for this Company.

3.5 Consortium/Third Party Administrator

Hildale/Colorado City Gas Department may employ the service of a Consortium/Third Party Administrator (C/TPA) to assist the DER with overall program management and consultation on any program issue. While the C/TPA will not serve as the DER, the C/TPA may support the DER by explaining the regulations and offering guidance on program-compliance issues.

3.6 Medical Review Officer (MRO)

HCCGD has designated a medical review officer (MRO) listed in Exhibit A to verify results according to 49 CFR Part 40 regulations. Our MRO is a licensed physician who has the qualifications required by DOT Procedures which require the MRO to go through training and re-qualification meeting the requirements of 40 CFR Part 40. HCCGD utilizes the MRO services listed in Exhibit A.

a) MRO Duties

Acts as an independent and impartial "gatekeeper" and advocate for the accuracy and integrity of the drug testing process.

Provides a quality assurance review of the drug testing process for the specimens under the MROs review. This includes, but not limited to:

- Ensures the review of the CCF on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be cancelled;
- Provides feedback to employers, collection sites and laboratories regarding performance issues where necessary; and
- Reports to and consults with the ODAPC or a relevant DOT agency when requiring DOT assistance in resolving any program issue. As an employer or service agent are prohibited from limiting or attempting to limit the MRO's access to DOT for this purpose and from retaliating in any way against an MRO for discussing drug testing issues with DOT.

The MRO must determine whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted, and invalid drug tests results from the laboratory.

Even though the MRO reviews employees' test results, this does not deem that MRO has an established a doctor-patient relationship with the employees whose tests the MRO reviews.

The MRO must 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).

The MRO must ensure the timely flow of test results and other information to employers.

The MRO must protect the confidentiality of the drug testing information.

The MRO must perform all your functions in compliance with this part and other DOT agency regulations.

b) MRO Notification to Employees

At the beginning of the confidential verification interview, the MRO will explain to the employee that the laboratory has determined that the employee's test result is the employee that the MROs decision will be based on information the employee provides during the interview.

The MRO will explain that, if further medical evaluation is needed for the verification process, the employee must comply with the MROs request for this evaluation and that failure to do so is equivalent to expressly declining to discuss the test result.

The MRO will warn the employee who has a confirmed positive, adulterated, substituted or invalid test that the MRO is required to provide to third parties drug test result information and medical information affecting the performance of safety-sensitive duties that the employee gives to the MRO in the verification process without the employee's consent. This means that any information provided by the employee to the MRO such as medications or other substances that will or may present a significant safety risk or may be medically disqualifying for the position, the MRO will report a safety concern to Hildale/Colorado City Gas Department.

c) MRO Notification of Employee Rights to Test the Split Specimen

If the MRO determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO will inform the employee of the following procedure in which to request a test of the split specimen if the employee desires.

The MRO informs the employee they have up to 72 hours from the time the MRO interviews the employee regarding the test result. The MRO gives the employee the MRO phone number to call to request another SAMHSA certified laboratory to test the split specimen which is Bottle B performed during the collection. The MRO will immediately order the split sample testing when the employee informs the MRO of the request. The MRO also informs the employee that Hildale/Colorado City Gas Department may require the employee to pay for the cost of shipment (if any) and reanalysis of the sample. The MRO informs the employee that the laboratory is not allowed to perform additional tests of the specimen, nor will DNA tests be authorized.

d) MRO Correctable Flaws

When the MRO discovers a “correctable flaw” during their review of the CCF, the MRO must cancel the test unless the flaw is corrected. The following are correctable flaws that the MRO must attempt to correct:

- 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.
- The certifying scientist’s signature is omitted on the laboratory copy of the CCF for a positive, adulterated, substituted, or invalid test result.
- The collector uses a non-Federal form or an expired Federal form for the test.

The flaw may be corrected using the following procedure, provided that the collection testing process has been conducted at an HHS-certified laboratory agency, the state agency may request that the laboratory retain the sample for an additional period. If, within the 365-day period, the laboratory has not received a proper written request to retain the sample for a further reasonable period specified in the request, the sample may be discarded following the end of the 365-day period.

- If the problem is the use of a non-Federal form or an expired Federal form, you must provide a signed statement (i.e., a memorandum for the record). It must state that the incorrect form contains all the information needed for a valid DOT drug test, and 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 you have taken to prevent future use of non-Federal forms or expired Federal forms for DOT tests. For this flaw to be corrected, the test of the specimen must have occurred at a HHS- certified laboratory where it was tested consistent with the requirements of this part. You must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier.
- Written documentation of a correction with the CCF must be maintained.
- The CCF is to be marked and to make it obvious on the face of the CCF that the flaw has been corrected.

If the test cannot be corrected, the MRO must cancel the test.

3.7 Substance Abuse Professional (SAP)

Hildale/Colorado City Gas Department will follow the requirements of Part 40 for its Substance Abuse Professional (SAP) obligations. A full description of the SAP requirements is in Part 40, Subpart O (“Substance Abuse Professionals and the Return-to-Duty Process”).

HCCGD will refer employees only to SAP’s who have the credentials, basic knowledge, and qualification training, including fulfilling obligations for continuing education courses, for DOT violations.

The SAP will subscribe to the ODAPC list-serve website to keep current on any changes to the DOT alcohol and drug testing regulations. The SAP will not be an advocate for HCCGD or the employee. The SAP's function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare.

HCCGD will provide to each employee who violates a DOT drug and alcohol regulation a listing of SAP's readily available to the employee and acceptable to the Company. The list will include SAP names, addresses, and telephone numbers. There will not be a charge to the employee for compiling or providing this list. HCCGD may use its C/TPA or other service agent to provide this information. Any covered safety-sensitive employee who has violated DOT drug and alcohol regulations cannot again perform any DOT covered safety-sensitive duties for this Company until and unless the employee successfully completes the SAP evaluation, referral, and education/treatment process.

Hildale/Colorado City Gas Department is not required to pay for a SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a DOT drug and alcohol regulation.

Hildale/Colorado City Gas Department is only bound by DOT to ensure that if the employee is provided an opportunity to return to a DOT covered safety-sensitive duty following a violation, that HCCGD will ensure that the employee receives an evaluation by a SAP meeting the requirements of Part 40 and that the employee successfully complies with the SAP's evaluation recommendations before returning to the covered safety-sensitive job. Even if an SAP believes that the employee is ready to return to safety-sensitive work, HCCGD is under no obligation to return the employee to work. Under the DOT regulations, hiring and reinstatement decisions are left to the employer. The DOT leaves all payment issues for SAP evaluations and services to HCCGD and the employee to resolve.

The SAP will make a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use. The SAP will refer the employee to an appropriate education and/or treatment program. At the completion of the education and/or treatment, the SAP will conduct a face-to-face follow-up evaluation to determine if the employee actively participated in the education and/or treatment program and demonstrated successful compliance with the initial assessment and evaluation recommendations.

Reports will be provided to Hildale/Colorado City Gas Department on both the initial requirements and the outcome of the follow-up evaluation. The report will be specific and will include all of the Part 40 requirements of a written SAP report. The SAP will provide the DER with a written follow-up drug and/or alcohol testing plan for the employee and, if deemed necessary, will also provide the employee and Hildale/Colorado City Gas Department with recommendations for continuing education and/or treatment.

- **Referral, Evaluation, and Treatment**

Each covered employee who has violated the policy by having a non-negative or refusal to test for a drug and alcohol test will be provided with a list of qualified substance abuse professionals within a reasonable distance from the employee's residence or HCCGD can provide the employee with a national SAP network for which to call for qualified SAPs in the employee's area of residence.

Before a covered employee returns to duty for performance of a covered function after engaging in a non-negative or refusal to test for any employer, the employee must have a face-to-face assessment by a qualified SAP, go through the required rehabilitation prescribed by the SAP, successfully complete the rehabilitation, and have a follow-up assessment by the same SAP.

The employee shall be subject to unannounced follow-up alcohol tests administered following the employee's return to duty. The number and frequency of such follow-up testing shall be determined by a SAP but shall consist of at least six tests in the first 12 months following the employee's return to duty. In addition, follow-up testing may include testing for drugs, 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 employee's return to duty. The SAP 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.

Evaluation and rehabilitation may be provided by HCCGD, by a SAP under contract with the Company, or by a SAP not affiliated with HCCGD. The choice of SAPs and assignment of costs shall be made in accordance with employer/employee agreements and employer/employee policies.

HCCGD shall ensure that a SAP who determines that a covered employee requires assistance in resolving problems with drug abuse and alcohol misuse does not refer the employee to the SAP's private practice or to a person or organization from which the SAP receives remuneration or in which the SAP has a financial interest. This paragraph does not prohibit a SAP from referring an employee for assistance provided through –

- A public agency, such as a State, county, or municipality;
- HCCGD or a person under contract to provide treatment for alcohol on behalf of HCCGD
- The sole source of therapeutically appropriate treatment under the employee's health insurance program; or
- The sole source of therapeutically appropriate treatment reasonably accessible to the employee

3.8 Employee Assistance Program

HCCGD shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. HCCGD may establish the EAP as a part of its internal personnel services or contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of HCCGD, the EAP may include an opportunity for employee rehabilitation.

Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for

employee assistance; and display and distribution of the Company policy regarding the use of prohibited drugs.

Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

In addition, training for supervisory personnel who will determine whether an employee must be alcohol tested based on reasonable cause must include one 60-minute period of training on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

3.9 Collector/Collection Facilities

The Company will ensure that collection sites utilized by its employees are aware of their responsibilities with regard to the DOT specimen collection process. These responsibilities are to collect urine specimens using Part 40 procedures, current “DOT Urine Specimen Collection Guidelines” and applicable DOT agency regulations, ship the specimens to a Department of Health and Human Services (HHS) certified laboratory for analysis, and distribute copies of the Federal Drug Testing Custody and Control Form (CCF) to the laboratory, Medical Review Officer, employer or employer’s C/TPA and employee in a confidential manner. All attempts are made to use collectors who have been trained in accordance with Part 40. Hildale/Colorado City Gas Department, or the Company’s C/TPA, will ask the collection sites conducting DOT collections to attest to the fact that they comply with DOT standards of practice. The direct supervisor of a covered safety-sensitive employee shall not serve as a collector in conducting any required drug test unless it is otherwise impracticable. Collectors will complete requalification/certification every five years. Collectors will subscribe to the ODAPC list-serve website to keep current on any changes to the DOT alcohol and drug testing regulations.

3.10 Drug Testing Laboratory

HCCGD shall use for the drug testing required by the PHMSA regulation drug testing laboratories certified by the Department of Health and Human Services under the DOT Procedures. The Company utilizes the laboratory services listed in Appendix A to analyze the results according to 49 CFR Part 40 regulations.

Urine and/or oral fluids specimens are only authorized for DOT testing. All testing must be performed at a certified laboratory. The laboratory tests for the drugs required by DOT regulations of drug classifications for, cocaine, marijuana, opioids, amphetamines and PCP. All initial non- negatives will be confirmed using gas chromatography/mass spectrometry (GC/MS). The initial and confirmatory testing will use different chemical principles. DOT specimens will not be tested for any other drugs. DOT specimens will not be subject to DNA testing.

The laboratory will ensure that, on each DOT test, each specimen is also subjected to “validity testing.” The purpose of validity testing is to determine if the employee tampered with their specimen during the collection process. Validity testing measures the creatinine concentration and specific gravity to detect a diluted or substituted specimen; pH is measured as one criterion established to detect an adulterated specimen. Validity testing also incorporates HHS criteria (used by DOT) in testing for specific adulterants such as nitrites, chromates, surfactants, and other active chemical compounds.

When the laboratory receives a DOT specimen they will unpack and enter it into the testing process. Part of that process is to examine the condition of the specimen bottles and accompanying CCF. The laboratory will look closely for any specific reason to stop the testing process. When a laboratory discovers a “correctable flaw” (signature is omitted on the certification statement on the CCF) during its incoming specimens, 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).

If the laboratory determines a fatal flaw exists, the specimen is rejected for testing. If a fatal flaw does not exist, the specimen will be tested. The DOT fatal flaws are as follows:

- Specimen ID numbers on the CCF and the bottles do not match
- Not enough urine and/or oral fluids and the bottles cannot be re-designated
- Signs of tampering and the bottles cannot be re-designated
- Collector’s printed name and signature are missing
- No CCF (and a specimen was collected)
- Two separate collections were performed using one CCF
- No specimen submitted with the CCF (and a specimen was collected)

The laboratory will open only the primary specimen (Bottle “A”) to conduct the two tests (initial and confirmatory). If the specimen tests negative in either test and does not have any specimen validity issues, the result will be reported to the MRO as a negative. Only if the specimen test results are positive, adulterated, substituted, and/or invalid under both tests will the specimen be reported to the MRO as a positive, adulterated, substituted, and/or invalid.

The laboratory will report all results directly to our Medical Review Officer through a secured mechanism designed by the laboratory and the MRO office.

HCCGD shall ensure that all covered employees are aware of the provisions and coverage of this Policy and that all covered employees are notified prior to testing that such a test is required by Part 199.

4.0 Drug and Alcohol Testing Policy

This Policy maintains and follows the requirements of PHMSA and DOT by issuance of this policy. It contains—

- a) Methods and procedures for compliance with all the requirements of PHMSA;
- b) The name and address of each laboratory that analyzes the specimens collected for drug testing;
- c) The name and address of HCCGD Medical Review Officer, and Substance Abuse Professional; and
- d) Procedures for notifying employees of the coverage and provisions of the policy.

The Associate Administrator or the State Agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator’s plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR

190.206 or the relevant State procedures, require the operator to amend its plan and procedures as necessary to provide a reasonable level of safety.

4.1 Employees Subject to Testing

Any employee who would perform an operations, maintenance, or emergency-response function, regulated by Part 192, 193, or 195, on a pipeline or LNG facility, is subject to mandatory DOT drug and alcohol testing under this program. Such individuals are subject to DOT testing because their job functions have been determined to be a covered, safety-sensitive, transportation function. Appendix C (Covered Positions) provides specific employee titles, for this Company, of those subject to testing under this program. However, it is the work that an individual performs, not their title of their job, which determines whether their work is covered and therefore subject to drug and alcohol testing.

Covered employees may be employed by the operator, be a contractor engaged in by the operator, or be employed by such a contractor; this includes full-time, part-time and temporary employees and includes any applicant for a covered function.

4.2 Acknowledgement/Receipt Form

The “Acknowledgement/Receipt Form”, (Exhibit B), applies to all drug and/or alcohol tests, or related foregoing or subsequent DOT procedures, while the employee is in a covered safety-sensitive function with Hildale/Colorado City Gas Department. The signed form will be maintained by HCCGD. For any test, the expectations placed on the employee by HCCGD are to “follow all instructions” in order to accomplish the test.

4.3 DOT Background Check Requirements

Prior to the first time Hildale/Colorado City Gas Department uses an employee to perform safety-sensitive duties (i.e., a new hire or an employee transferring into a safety-sensitive position) HCCGD will require a “background check” of the employee. The background check will look back into the employee’s past two years of DOT employment for DOT violations. Background checks are conducted only after obtaining the employee’s written authorization to do so. Any employee refusing to provide written consent will not be permitted to perform safety-sensitive functions. The Company will not allow the safety-sensitive employee to perform their functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless Hildale/Colorado City Gas Department has obtained or made and documented a good faith effort to obtain alcohol and drug testing information from previous DOT-regulated employers.

Hildale/Colorado City Gas Department will request the following information about the employee:

- a) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- b) Verified positive drug tests;
- c) Refusals to be tested (including verified adulterated or substituted drug test results);
- d) Other violations of DOT agency drug and alcohol testing regulations; and
- e) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee’s successful completion of DOT return-to-duty and follow- up testing requirements.

HCCGD will make at least two attempts by telephone, e-mail or fax, and maintain documentation associated with the attempts to obtain history-check information (e.g., date and time of the attempt, persons contacted). If HCCGD finds evidence of past DOT violations, those violations may be used as the reason for not hiring the individual or for termination.

Hildale/Colorado City Gas Department will not use any employee in a DOT covered safety-sensitive position that has had a past DOT violation and has not complied with DOT eligibility standards for returning to covered safety-sensitive work. HCCGD will also ask the employee if they had any pre-employment test that was positive for which the previous employer did not hire them. The employee's answer to this question will be maintained as part of the employee's history-check information.

4.4 D.A.T. Express Test

In addition to the requirements set forth under federal regulations, Hildale/Colorado City Gas Department may require additional testing and procedures under The Company's own authority. HCCGD's Non-DOT Testing Program will be kept separate and apart from the DOT testing program. The Company will advise employees and applicants when any drug-free workplace policy or practice is mandated by PHMSA or whether it be by the independent authority of HCCGD. The Company will conduct non-DOT testing within the parameters of any applicable state and federal laws.

4.5 Drug and Alcohol Collection Procedures

Hildale/Colorado City Gas Department will conduct controlled substances (drug) and alcohol testing within the parameters established by DOT and PHMSA. In accordance with the regulation, The Company will use scientifically valid methods and procedures employed by laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA).

HCCGD will also utilize the services of specimen collection personnel who are trained in and comply with the specific collection requirements described in the federal regulations. (See Subparts C, D, and E of 49 CFR Part 40).

Furthermore, the Company will utilize the services of trained and certified medical review officers (MRO) to verify confirmed positive controlled substances test results (See Subpart G of 49 CFR Part 40), Substance Abuse Professionals (SAP) (See Subpart O of 49 CFR Part 40) to assist in evaluating workers who test positive and who are not immediately terminated, and Breath Alcohol Technicians (BAT) and Screening Test Technicians (STT) to conduct alcohol tests. (See Subpart J of 49 CFR Part 40).

- **Confirmation and Medical Review**

HCCGD will test urine and/or oral fluids specimens for the presence of controlled substances. All initial test non-negatives will be confirmed by gas chromatography/mass spectrometry (GC/MS). All confirmed positive drug test results will be reviewed by a medical review officer ("MRO") to determine whether there is any legitimate medical explanation for the confirmed positive, adulterated, substituted or invalid test result.

At the beginning of the confidential verification interview, the MRO will explain to the employee that the laboratory has determined that the employee's test result is positive, adulterated,

substituted, or invalid. The MRO will tell the employee the drug(s) for which their specimen tested positive or the basis for the finding of adulteration or substitution.

The MRO will explain the verification interview process to the employee and inform the employee that the MRO's decision will be based on information the employee provides during the interview. The MRO will explain that, if further medical evaluation is needed for the verification process, the employee must comply with the MRO's request for this evaluation and that failure to do so is equivalent to expressly declining to discuss the test result.

The MRO will warn the employee who has a confirmed positive, adulterated, substituted or invalid test that the MRO is required to provide to third parties drug test result information and medical information affecting the performance of safety-sensitive duties that the employee gives to the MRO in the verification process without the employee's consent. This means that any information provided by the employee to the MRO such as medications or other substances that will or may present a significant safety risk or may be medically disqualifying for the position, the MRO will report a safety concern to Hildale/Colorado City Gas Department.

The MRO must also advise the employee that, before informing any third party about any medication the employee is using pursuant to a legally valid prescription consistent with the Controlled Substances Act, the MRO will allow five (5) business days from the date he/she reports the verified negative result for the employee to have the prescribing physician contact the MRO to determine if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If, in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk remains after he/she communicates with the employee's prescribing physician or after five (5) business days, whichever is shorter, the MRO must follow § 40.327. If the MRO receives information that eliminates the medical qualification issue or significant safety risk, the MRO must transmit this information to any third party to whom he/she previously provided information under § 40.327.

- **Direct Observation Collections**

Under DOT's 49 CFR Part 40 directly observed collections are authorized and required in specific situations. Refer to 49 CFR Part 40 (§ 40.67) for a complete explanation of those situations and what Hildale/Colorado City Gas Department's obligations are in such circumstances. In the event of a direct observation collection the employee will not be given advance notice.

A direct observed collection will take place if:

- Directed by the DER to perform a direct observation.
- The employee attempts to tamper with his/her specimen at the collection site.
- The specimen was out of normal temperature range.
- The specimen shows signs of tampering.
- The collector finds an item in the employee's pocket or wallet which appears to be brought into the site to contaminate a specimen or the collector notes conducts suggesting tampering.
- The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to you that there was not an adequate medical explanation for the result;

- The Medical Review Officer (MRO) orders the direct observation because the employee has no legitimate medical explanation certain atypical laboratory results or the employee's split specimen could not be tested following a positive or refusal (including adulterated/substituted) test result.
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to Hildale/Colorado City Gas Department as negative-dilute and that a second collection must take place under direct observations

Additionally, specimen collections for all return-to-duty and follow-up drug testing will be conducted under direct observation. The collector (or the observer) must be of the same gender as the employee for direct observation collections.

- **Shy Bladder**

After the employees, first unsuccessful attempt to provide an acceptable specimen, you have up to 3 hours to produce a single specimen of sufficient volume (specimens cannot be combined). The employee can consume up to 40 ounces of fluid. If the employee does not provide a specimen within those 3 hours, the employee must undergo a medical evaluation to determine if there was a medical reason for your inability to do so. If a physician determines that there was no medical reason for not providing the sample, this will be considered a refusal to test, and the employee will be immediately removed from performing safety-sensitive functions and could result in termination of employment.

If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collector must discontinue the collection, note the fact on the "Remarks" line of the CCF (Step 2), and immediately notify the DER. The collector must also discard any specimen the employee previously provided to include any specimen that is "out of temperature range" or shows signs of tampering. In the remarks section of the CCF that the collector will distribute to the MRO and DER, he/she must note the fact that the employee provided an "out of temperature range specimen" or "specimen that shows signs of tampering" and that it was discarded because the employee did not provide a second sufficient specimen

- **Split Specimen**

In drug testing, the urine specimen is split into two specimens. When the sample is sent to the first laboratory for testing, the split portion of that sample is retained unopened. It can then be transported to a second laboratory if the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

- **Cost of Drug Testing**

Hildale/Colorado City Gas Department will comply with all federal, state and local laws and regulations regarding payment for drug and alcohol testing services. If an employee requests that a split specimen be tested, HCCGD is responsible to ensure that the MRO, first laboratory, and second laboratory perform all applicable functions in a timely manner. Under the DOT regulations the Company may not condition its compliance with these requirements on the employee's direct payment to the MRO or laboratory or the employee's agreement to reimburse Hildale/Colorado

City Gas Department for the costs of testing. If the employee is asked to pay for any of these services and is either unwilling or unable to do so the Company remains responsible to ensure that the test takes place in a timely manner.

- **Drug Collection Procedures**

When a specific time for an employee's test has been scheduled, or the collection site is at the employee's worksite, and the employee does not appear at the collection site at the scheduled time, the collector will contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, the collector will notify the DER that the employee has not reported for testing. The DER will make the call as to whether it is a refusal to test.

If the employee requires medical attention (e.g., an injured employee in an emergency medical facility who is required to have a post-accident test), treatment must be performed before a drug test can be conducted.

The employee will be asked to provide appropriate identification to the collector upon arrival at the collection site. Acceptable forms of identification include a photo identification (e.g., driver's license, employee badge issued by the employer, or any other picture identification issued by a Federal, state, or local government agency), or identification by an employer or employer representative. If the employee cannot produce positive identification, the collector will contact the DER to verify the identity of the employee.

The urine and/or oral fluids specimen will be collected by a trained collection site person (the Collector) in accordance with DOT rules, using a DOT Custody and Control Form (CCF). The Collector will explain the procedures and review the back of the CCF with the employee.

The collector will ask the employee to remove any unnecessary outer clothing (e.g., coat, jacket, hat, etc.) and to leave any briefcase, purse, or other personal belongings he or she is carrying with the outer clothing. The employee can retain his or her wallet. In most cases, lockers are provided for the employee and the employee is provided with the key. If the employee asks for a receipt for any belongings left with the collector, the collector must provide one.

The collector will direct the employee to empty his or her pockets and display the items to ensure that no items are present that could be used to adulterate the specimen. If nothing is there, the employee places the items back into the pockets and the collection procedure continues. If the employee refuses to empty his or her pockets, this is considered a refusal to cooperate in the testing process. Refusals are considered a positive result that has the same requirements as if the employee tested positive for a drug substance.

The collector will instruct the employee to wash and dry his or her hands while the collector observes, and the collector will direct the employee that they cannot wash their hands again until directed to do so.

The collector will either give the employee or allow the employee to select the collection kit or collection container (if it is separate from the kit) from the available supply. Either the collector or the employee, with both present, then unwraps or breaks the seal of the kit or collection container and the collector will direct the employee to go into the room used for urination and provide a specimen of at least 45 mL. The employee will be directed to not flush the toilet and return with the specimen as soon as possible after completing the void. The collector will check the temperature of the specimen as soon as the employee hands over the specimen, but no later than four minutes after the employee comes out of the restroom.

The collector then pours at least 30 mL of urine from the collection container into a specimen bottle and places the lid/cap on the bottle. This will be the primary specimen or “A” bottle. The collector then pours at least 15 mL into a second bottle and places the lid/cap on the bottle. This will be the “B” bottle used for the split specimen. The tamper- evident seals from the CCF are placed on each bottle. The collector writes the date on the seals and the employee will be asked to initial the seals. If the employee fails or refuses to initial the seals, the collector will note this in the “Remarks” line of the CCF and complete the collection process. This is not considered a refusal to test.

The collector will now direct the employee to read, sign, and date the certification statement, and provide date of birth, printed name, and day and evening contact telephone numbers in Step 5 of Copy 2 of the CCF. The collector completes the collector’s portion of the chain of custody on the CCF and ensures that all copies of the CCF are legible and complete and will remove Copy 5 from the CCF and give it to the employee. The collector may suggest the employee to list any prescription or over-the-counter drugs on the employees copy of the CCF. This information may help the employee remember what medications he or she may have taken if a positive result is reported by the laboratory to the MRO.

The collector will place the specimen bottles and Copy 1 of the CCF inside the appropriate pouches of the leak-resistant plastic bag, and seals both pouches. The collector will allow the employee to wash his or her hands now and can leave the collection site.

- **Alcohol Testing**

Hildale/Colorado City Gas Department will only use DOT-approved ATFs and ensure only qualified Screening Test Technicians (STT) or Breath Alcohol Technicians (BAT) perform DOT alcohol tests will require all training verification documents to be available upon request. Alcohol tests will be conducted using devices found on the Conforming Products List (CPL) issued by the National Highway Traffic Safety Administration (NHTSA) in accordance with DOT regulations. The devices used by HCCGD will be maintained according to the manufacturer’s specifications in the Quality Assurance Plan (QAP).

In addition, a supervisor of an employee may not be used to conduct reasonable suspicion/cause test if that supervisor was the one who made the determination for the test.

- **Alcohol Collection Procedures**

HCCGD will provide the employee with the specific location where the test will take place. The tests will be conducted in a private setting with controlled access. The alcohol screening test may be conducted with breath or saliva specimen for the initial screen but only breath specimens are allowed for the confirmation test.

When a specific time for an employee's test has been scheduled, or the collection site is at the employee's worksite, and the employee does not appear at the collection site at the scheduled time, the collector will contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, the collector will notify the DER that the employee has not reported for testing. The DER will make the call as to whether it is a refusal to test.

If the employee requires medical attention (e.g., an injured employee in an emergency medical facility who is required to have a post-accident test), treatment must be performed before an alcohol test can be conducted.

The employee is to provide positive identification by way of 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). No fax or photocopies are allowed. 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, the DER can verify the identity of the employee.

The BAT or STT will explain the testing procedure to the employee, including showing the employee the instructions on the back of the ATF and completing Step 1 of the ATF. The BAT will direct the employee to complete Step 2 on the ATF and sign the certification. If the employee refuses to sign this certification, they will document this refusal on the "Remarks" line of the ATF and immediately notify the DER. This is a refusal to test.

The BAT or STT will select, or allow the employee to select, an individually wrapped or sealed mouthpiece from the testing materials and insert it into the device in accordance with the manufacturer's instructions. The employee will be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained. The employee will be shown the displayed test result. The device will print a label with, or the technician will write, the result and pertinent information on the ATF and ensure the information printed correctly onto the ATF.

In the case an ASD is used, the STT or BAT will check the expiration date and show it to the employee. The STT or BAT will follow the manufacturer's instructions, and only use a device that has been under their control. The device will be opened in the presence of the employee, and the employee will be offered the opportunity to use the device, according to instructions. In any case where the technician uses the device, the device will be inserted into the employee's mouth and gather saliva, with the technician wearing single-use examination gloves while doing so and

change them following each test. Assurance will be made that the device has properly activated and that the correct amount of time will be allowed to elapse before reading the result. If problems occur (e.g., the device does not activate, it is dropped on the floor), it will be discarded, and a new test will be conducted using a new device. The STT or BAT will note on the ATF the reason for the new test. If the ASD to work properly fail, the technician will direct the employee to take a new test immediately, using an EBT for the screening test. Devices, swabs, gloves or other materials used in the prior saliva or breath tube testing will not be used in subsequent tests.

A result with an alcohol concentration of less than 0.02 will be recorded on the ATF; the result will be transmitted to the DER, with the test concluded without consequence. A result with an alcohol concentration of 0.02 or higher requires the employee to take a confirmation test. If the same BAT who conducted the alcohol screening test will also conduct the confirmation test, the test will begin immediately. If a different BAT will conduct the confirmation test, the technician conducting the screening test will direct the employee to the site where the test will take place. The technician will also advise the employee not to eat, drink, put anything (e.g., cigarette, chewing gum) into the employee's mouth, or belch, during the 15-minute waiting period until the test occurs. The employee will be observed by the technician or an employer representative on the way to the confirmation testing site. The employee will be directed not to attempt to drive a motor vehicle to the confirmation testing site.

The BAT will ensure that the time since the screening test has been at least 15 minutes, and the employee has been advised not to eat, drink, put anything (e.g., cigarette, chewing gum) into the employee's mouth, or belch. The BAT will conduct an air blank on the EBT in the presence of the employee. The reading must be 0.00 for the test to proceed. If the reading is greater than 0.00, another air blank must be conducted; the EBT must not be used (taken out of service) if the second reading is greater than 0.00. The EBT cannot be used for testing until it is found to be within tolerance limits on an external check of calibration. A new sealed mouthpiece will be opened, in view of the employee, and used for the test. The employee will be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained. The results will be shown to the employees and printed for application to the ATF.

If the alcohol confirmation test result is lower than 0.02, nothing further is required of the employee. If the alcohol confirmation test result is 0.02 or higher, the BAT will immediately transmit the result directly to the DER in a confidential manner.

In situations where an employee is unable to provide sufficient saliva to complete a screening test, Hildale/Colorado City Gas Department will ensure that the employee takes a breath test immediately. In situations where an employee is unable to provide sufficient breath to complete a test, the employee will be sent for an evaluation, by a licensed physician who is acceptable to HCCGD.

The Physician will have expertise in the medical issues raised by the employee's failure to provide a breath specimen, as well as be apprised of the consequences of the appropriate DOT agency regulation for refusing to take the required alcohol test. The physician will provide

HCCGD with a signed statement of their conclusions. If it is the reasonable medical judgment of the physician, that a medical condition has, or with a high degree of probability could have, precluded the employee from providing enough breath, the test will be cancelled by the Company. If 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 enough breath, this constitutes a refusal to test.

Hildale/Colorado City Gas Department will ensure that an alcohol test is cancelled if a fatal flaw occurs. Fatal flaws are:

- 1) In the case of a screening test conducted on a saliva ASD or a breath tube ASD, the STT or BAT reads the result either sooner than or later than the time allotted by the manufacturer; the saliva ASD does not activate; the device is used for a test after its expiration date; or, in the case of a screening or confirmation test conducted on an EBT, the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result;
- 2) In the case of a confirmation test the BAT conducts the confirmation test before the end of the minimum 15-minute waiting period; the BAT does not conduct an air blank before the confirmation test; there is not a 0.00 result on the air blank conducted before the confirmation test; the EBT does not print the result; or, the next external calibration check of the EBT produces a result that differs by more than the tolerance stated in the QAP from the known value of the test standard. In this case, every result of 0.02 or above obtained on the EBT since the last valid external calibration check is cancelled.

HCCGD will ensure that an alcohol test is cancelled if a correctable flaw occurs and is not corrected. Correctable flaws are: the BAT or STT does not sign the ATF; the BAT or STT fails to note on the "Remarks" line of the ATF that the employee has not signed the ATF after the result is obtained; and the BAT or STT uses a non-DOT form for the test.

HCCGD will ensure that BATs and STTs will try to successfully complete each alcohol test for an employee. If they become aware of a problem that will cause the test to be cancelled, they will try to correct the problem promptly, if practicable. Repeating the test is an acceptable part of this process. If repeating the testing process is necessary, a new test (new ATF, new device) must begin as soon as possible. If repeating the testing process is necessary, the technician is not limited in the number of attempts to complete the test, provided that the employee is making a good faith effort to comply with the testing process.

If another testing device is not available for the new test at the testing site, the technician will immediately notify the DER and advise the DER that the test could not be completed. The DER will make all reasonable efforts to ensure that the test is conducted at another testing site as soon as possible. If Hildale/Colorado City Gas Department or its service agent administering the testing process becomes aware of a correctable flaw that has not been corrected, all practicable action will be taken to correct the problem so that the test is not cancelled. If the problem resulted from the omission of required information, the person responsible for providing the information must supply in writing the missing information and a signed statement that it is true and accurate. If the

problem is the use of a non-DOT form, the technician must, as the person responsible for the use of the incorrect form, certify in writing that the incorrect form contains all the information needed for a valid DOT alcohol test.

The technician must also provide a signed statement that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond the technician's control, and the steps the technician has taken to prevent future use of non-DOT forms for DOT tests. The technician must supply this information on the same business day on which the collector was notified of the problem, transmitting it by fax, e-mail.

4.6 Confidentiality for Drug and Alcohol Testing Information

Except as otherwise provided for by DOT, Hildale/Colorado City Gas Department is prohibited from releasing individual test results or medical information about an employee to third parties without the employee's specific written consent.

A "third party" is any person or organization not explicitly authorized or required by the regulations to be informed of controlled substances and/or alcohol testing results or any other matters regulated by this policy.

"Specified written consent" means a statement signed by the employee that he or she agrees to the release of a portion of information to an explicitly identified person or organization at the time. "Blanket releases," in which an employee agrees to a release of a category of information (e.g., all test results) or to release information to a category of parties (e.g., other employers who are members of a consortium, companies to which the employee may apply for employment), are prohibited by DOT.

Hildale/Colorado City Gas Department may release information pertaining to an employee's drug or alcohol test without the employee's consent in certain legal proceedings, including: a lawsuit (e.g., a wrongful discharge action), grievance (e.g., an arbitration concerning disciplinary action taken by HCCGD), or administrative proceeding (e.g., an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results).

Included in these proceedings are criminal or civil actions resulting from an employee's performance of safety-sensitive duties, in which a court determines that the drug or alcohol test information sought is relevant to the case and issues an order directing HCCGD to produce the information.

The Company may be required to release information under certain circumstances, such as when it receives a specific, written consent from an employee authorizing the release of information about that employee's drug or alcohol tests to an identified person, upon request of DOT agency representatives, when requested by the National Transportation Safety Board as part of an accident investigation, and when requested by a federal, state or local safety agency with regulatory authority over HCCGD or the employee.

5.0 Drug and Alcohol Tests Required

Hildale/Colorado City Gas Department shall conduct the following test as required by PHMSA and DOT regulations and procedures:

- **Pre-Employment Testing**

HCCGD may not hire or contract for the use of any person, unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this policy. The Company shall conduct a pre-employment drug test and receive a negative result before the first performance of a covered function. A drug test will also be required before any current employee in a non-regulated position is assigned, transferred, promoted, or otherwise permitted to perform a covered function on behalf of HCCGD for the first time. Prior to taking a pre-employment drug test, the applicant will be given forms notifying the applicant to report for a drug test. A verified positive drug test will disqualify an applicant/covered employee from performing a covered function and the conditional offer of employment for such position will be withdrawn.

- **Post-Accident Testing**

A covered employee who is performing a covered function must submit to a post-accident drug and alcohol test as soon as possible after any occurrence that meets the description of a "DOT Accident," as defined in this Policy. Whenever a covered employee is involved in a DOT Accident, the employee is required to immediately contact his/her supervisor or other Company official and remain available to be tested.

HCCGD will determine if a covered employee's performance contributed to the DOT Accident or cannot be completely discounted as a contributing factor to the accident. The Company may decide not to conduct a test under the regulations, but such a decision must be based on specific information that the covered employee's performance has no role in the cause(s) or severity of the accident.

Nothing in this section shall be construed to require the delay of any necessary medical attention nor will a covered employee be prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical personnel to administer medical care to any injured personnel.

- **Alcohol**

Tests should be administered within two (2) hours of an accident. If unable to test within the two (2) hour period, the employer must document the reason(s) for the time delay. If the test was not performed within eight (8) hours, cease attempts to administer the test and document the reason(s) why the test was not conducted.

The covered employee must refrain from consuming alcohol for eight (8) hours after an accident and/or until the test has been administered. A covered employee who is subject to post-accident testing must remain available (including providing notification of his/her location to HCCGD if he/she leaves the scene of the accident prior to

submission to a post-accident test) or the Company may consider the covered employee to have refused to submit to the test.

- **Drug**

Tests should be administered within thirty-two (32) hours after an accident. If the test was not performed within thirty-two (32) hours, the employer will cease attempts and prepare and maintain a record stating the reason(s) why the test was not conducted.

A covered employee who is subject to post-accident testing must remain available or the employer may consider the covered employee to have refused to submit to the test.

- **Random Testing**

Every covered employee shall submit to random drug testing. All such tests will be unannounced and performed at reasonable intervals throughout the workday, workweek and year based on the annual rate as set by PHMSA. Employees will be selected for testing by use of a computer-based, random number generator or equivalent random selection method that is matched with an employee's social security number, employee identification number or comparable identifying numbers facilitated by Human Resource Director, Shirley Zitting.

Each covered employee shall have an equal chance of being tested each time selections are made (i.e., employees remain in the random selection pool always, regardless of whether they have been previously selected).

Whenever a covered employee is randomly selected to be tested, he/she will not be notified of their selection until after reporting for duty. Employees will be instructed to immediately report to the collection site, once notified by the appropriate Company representative. A covered employee who tests positive or refuses to submit to a test is unqualified to perform covered functions.

Each covered employee selected for a random test shall be tested during the selection period. If a covered employee selected for a random test is on vacation, temporary layoff, medical leave or otherwise not at work, the covered employee must be referred for a random test upon his/her return to work. Hildale/Colorado City Gas Department will not skip or select an alternate in the event a selected covered employee is unavailable for a test on any day during the random selection period. If a covered employee selected for a random test does not return to work before the beginning of a new random selection period (i.e., the next random draw the Company will ensure random testing percentages are met in accordance with the regulatory requirements.

There is no random alcohol allowed under this PHMSA plan. If there is a client requirement to have an alcohol test performed the test must be performed under this Companies authority as a Non-DOT alcohol test and the test purpose should be Pre-access.

- **Reasonable Cause Testing**

HCCGD shall drug and/or alcohol test each covered employee when there is reasonable cause to believe the employee is using a prohibited drug or alcohol. The covered employee to be tested under DOT authority will be just starting to perform covered functions, during performing covered functions or just after performing covered functions.

The decision to test must be based on a reasonable and articulable belief that the covered employee is using a prohibited drug based on specific, contemporaneous physical, behavioral, or performance indicators of probable drug use. The same indicators are for alcohol testing except you should include speech and odor to the indicators.

At least two of the covered employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test a covered employee.

The concurrence between the two supervisors may be by telephone. However, in the case of employer with 50 or fewer employees subject to testing under the PHMSA regulations, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test.

- **Alcohol**

Observations must be made just before, during, or just after the employee performs a covered function. The person who makes the reasonable cause determination cannot conduct the alcohol test.

Alcohol tests should be administered within two (2) hours of observation. If unable to test within the two (2) hour period, the employer must document the reasons for the time delay. If the test is not performed within eight (8) hours, cease attempts to administer the test and document the reason(s) why the test was not conducted. If reasonable cause is observed and a test has not yet been performed, a covered employee will not perform a covered function until:

- 1) An alcohol test has been performed and the result is less than 0.02; or
- 2) The start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the determination that there is reasonable suspicion to believe that the employee has violated the prohibitions as contained in this policy.

Hildale/Colorado City Gas Department will not take any action under 49 CFR Part 199 against a covered employee based solely on the covered employee's behavior and appearance in the absence of an alcohol test. However, this does not prohibit HCCGD

from taking any disciplinary action otherwise consistent with local and/or state laws and the Company specifically reserves the right to do so.

- **Drug**

Drug tests should be administered as soon as possible after making a reasonable suspicion determination. If unable to drug test within thirty-two (32) hours, the employer must cease attempts and document the reason(s) why the test was not conducted.

- **Return-to-Duty Testing**

Hildale/Colorado City Gas Department will conduct a return-to-duty test prior to an employee returning to safety-sensitive duty following a DOT violation. A covered employee who refuses to take or has a positive drug test, refuses to take, or has an alcohol concentration 0.04 or greater, 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. A return-to-duty test, as a minimum, will be for the substance with the violation. A return-to-duty drug test may, however, be for both drugs and alcohol.

The decision belongs solely to the SAP from information gained during the SAP-evaluation/treatment process.

This test must be completed after an initial and follow-up evaluation by a Substance Abuse Professional (SAP), after the SAP's determination that the covered employee has successfully complied with prescribed education and/or treatment, and before resuming performance of a covered function. The result of the alcohol test must be less than 0.02.

Per DOT regulations, the DER must direct the drug collection of the employee for a return-to-duty test be performed as a direct observation collection procedure.

- **Follow-Up Testing**

A covered employee who refuses to take or has a positive drug test shall be subject to unannounced follow-up drug tests administered by TPA Name, 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.

Per the DOT regulations, the DER must direct the drug collection of the employee for a follow-up test be performed as a direct observation collection procedure.

5.1 Cut-Off Levels

The following is the list of the 5 drugs required as part of a DOT drug test panel. Initial and confirmation cutoff concentrations are expressed in nanograms per milliliter (ng/mL).

Urine Cut-Off Levels:

Initial Test Analyte	Initial Test Cutoff	Confirmatory Test Analyte	Confirmator Test Cutoff
Marijuana metabolites	50 ng/mL	THCA1	15 ng/mL
Cocaine metabolites (Benzoylecgonine)	150 ng/mL	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/MI	Hvdrocodone Hydromorphone	100 na/mL 100 ng/mL
Oxycodone/ Oxymorphone	100 ng/MI	Oxycodone Oxymorphone	100 ng/mL 100 ng/mL
6–Acetylmorphine	10 ng/mL	6–Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL 250 ng/mL
MDMA/MDA	500 ng/mL	MDMA MDA	250 ng/mL 250 ng/mL

6.0 DOT Drug and Alcohol Violations and Prohibited Conduct

Drug and Alcohol Violations: The following provides a listing of DOT drug and alcohol violations prohibited of safety-sensitive employees:

- Fail to appear for any test (except pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called by a HR Director;
- Fail to remain at the testing site until the testing process is complete; Provided, that an employee who leaves the testing site **before** the testing process commences for a pre-employment test is not deemed to have refused to test;
- Fail to provide a urine and/or oral fluids specimen for any drug test required by Part 40 or DOT agency regulations; Provided, that an employee who does not provide a urine and/or oral fluids specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen;
- Fail to provide a sufficient amount of urine and/or oral fluids when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fail or decline to take an additional drug test the employer or collector has directed you to take;
- Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under part §40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or
- Fail 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, refuses to remove hat, coat, gloves, coveralls when directed or failure to wash hands as directed).
- For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing, and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;

- Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
- Admit to the collector that you adulterated or substituted the specimen;
- The confirmed specimen reported to the MRO by the laboratory was adulterated or substituted; or
- Fail to sign the certification statement at Step 2 of the Alcohol Testing Form (ATF). Fail to cooperate with any part of the alcohol testing process

6.1 Use of Persons Who Fail or Refuse A Drug or Alcohol Test

HCCGD may not knowingly use as an employee any person who –

- Fails a drug or alcohol test required by PHMSA and the MRO makes the determination under DOT procedures.
- Refuses to take a drug or alcohol test required by this policy.

HCCGD will only be allowed to use employees listed above when the employee successfully completes a return-to-duty program prescribed by a qualified Substance Abuse Professional (SAP) and:

- Performs a return-to-duty drug and/or alcohol test and the test is negative.
- Does not fail a drug or alcohol test following the return-to-duty.

6.2 Prohibitions

Other requirements imposed by Hildale/Colorado City Gas Department except as expressly provided in the PHMSA regulation, nothing in the regulations shall be construed to affect the authority of HCCGD, or the rights of employees, with respect to the use or possession of alcohol, including authority and rights with respect to alcohol testing and rehabilitation.

The use or possession of alcoholic beverages while on HCCGD property, or in any vehicle, or on HCCGD time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

- **Alcohol Concentration**

Hildale/Colorado City Gas Department shall prohibit a covered employee from reporting for duty or remaining on duty requiring the performance of covered functions while having an alcohol concentration of 0.04 or greater. HCCGD, having actual knowledge that a covered employee has an alcohol concentration of 0.04 or greater, shall not permit the employee to perform or continue to perform covered functions.

A covered employee is prohibited from performing or continuing to perform covered functions when found to have an alcohol concentration of 0.02 or greater but less than 0.04 until the employee's alcohol concentration measures less than 0.02 or the start of the employee's next

regularly scheduled duty period, but not less than 8 hours following in the administration of the test.

- **Pre-Duty Use**

The use of alcohol within four (4) hours prior to performing covered functions, or if the employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty.

- **On-Duty Use**

Hildale/Colorado City Gas Department shall prohibit a covered employee using alcohol while performing covered functions. HCCGD, having actual knowledge that a covered employee is using alcohol while performing covered functions, shall not permit the employee to perform or continue to perform covered functions.

- **Use of Marijuana**

The DOT's Drug and Alcohol Testing Regulation – 49 CFR Part 40 does not authorize the use of Schedule I drugs, including marijuana for any reason. Therefore, Medical Review Officers (MRO) will not verify a drug test as negative based upon learning that the employee used “medical marijuana” and/or “recreational marijuana” when a state law passed medical marijuana or recreational marijuana initiatives. Marijuana remains unacceptable for any safety-sensitive employee subject to drug testing under the DOT.

6.3 Consequences of Prohibited Conduct

Option 1:

Any employee who has a POSITIVE drug test result, and/or an alcohol test with a result of 0.04 OR GREATER, and/or has engaged in other conduct prohibited by this policy, will be immediately removed from safety sensitive functions and terminated. An applicant who has a POSITIVE drug test result will not be hired.

OR

Option 2:

Any employee who has a POSITIVE drug test result, and/or an alcohol test with a result of 0.04 OR GREATER, and/or has engaged in other conduct prohibited by this policy, will be immediately removed from safety sensitive functions, evaluated by Substance Abuse Professional (SAP) and given a second chance.

ADDITIONAL DISCIPLINARY ACTIONS: Level of disciplinary action for each of the described circumstances.

0.02 – 0.039 Consequences

Option 1:

When the results of an alcohol (screen/confirmation) test indicate an alcohol concentration of 0.02 or greater, but less than 0.04, the employee will be removed immediately from performing the covered function for the remainder of his/her shift, but not less than eight hours. The employee will be subject to loss of pay for that period of time.

Option 2:

When the results of an alcohol (screen/confirmation) test indicate an alcohol concentration of 0.02 or greater, but less than 0.04, the employee will be removed immediately from performing the covered function for the remainder of his/her shift, but not less than eight hours. The employee will not be subject to loss of pay for that period of time.

Other Alcohol Consequences

- **When an employee refuses to report for assessment, evaluation, and/or referral for treatment with an EAP for results that were 0.02 to 0.39, he/she will be removed immediately from performing the covered function and will be subject to disciplinary action up to and including termination.**
- **Use of alcohol following an accident for which an alcohol test is required, prior to the test being conducted or for up to eight hours after the accident will result in immediate removal from performing the covered function. The employee will be subject to disciplinary action up to and including termination.**

7.0 Recordkeeping and Reporting

Hildale/Colorado City Gas Department will ensure that all records required by the DOT are maintained in a secure location under a locked file cabinet to protect confidentiality of the employees' information.

7.1 MRO Reporting of Results

All drug test results will be reported to HCCGD's DER in a confidential and timely manner. Before reporting any results, the MRO will have received a copy of the CCF showing where the employee has signed the form. The time period from collecting the specimen to reporting the verified test result is generally shorter for negatives than for non-negatives. Non-negatives will not be reported to the DER until all information required for the employee interview is received and approved by the MRO. Hildale/Colorado City Gas Department may use a C/TPA as its intermediary in receiving drug test results. If so, those reports will be handled in accordance with Part 40 requirements. If the MRO does not use Copy 2 of the CCF for reporting results, the MRO will maintain a copy of the signed or stamped report in addition to the signed or stamped and dated Copy 2. If the MRO uses an electronic data file to report negatives, the MRO will maintain a retrievable copy of that report in a suitable format for inspection and auditing by a DOT representative.

- **Negative Results**
The MRO reviews 5% of all negative drug tests outlined by the 49 CFR Part 40 regulations. The MRO staff releases all negative drug test results as allowed by the regulations. A legible Copy 1

of the CCF or the electronic laboratory results and a legible Copy 2, must be in hand before releasing negative results to perform a QC function to ensure no discrepancies have occurred.

- **Option 1**

If the MRO reports a negative dilute test that has a creatinine concentration greater than 5 mg/dL per 49 CFR Part 40.197 (b)(2), Hildale/Colorado City Gas Department has the opportunity to have an immediate recollection of the employee. This test will not be conducted under direct observation per the regulations unless the MRO directs you to do so. All employees with a negative dilute test for the test purpose(s) listed below will be asked by the DER to proceed to the collection facility for the recollection under the original reason for test with the most minimum possible advanced notice. HCCGD requires a recollection for negative dilutes. The recollection will be performed as a normal collection. It will not be directly observed in these events.

The DER will explain to the employee the reason for recollection. Any employee that refuses to have the additional test will be immediately relieved from performing safety-sensitive functions, will be terminated and referred to the SAP and complete the return to duty process before performing covered functions for any employer as this is a refusal to test which is the same as testing positive for a substance.

The second test result is the result of record even if it is a negative dilute. A subsequent test will not be required.

- **Option 2**

Hildale/Colorado City Gas Department will not require a re-collection of a urine and/or oral fluids specimen if the result is negative-dilute.

If the dilute specimen has a creatinine concentration equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL, the MRO shall require a recollection of the specimen under **direct observation**.

- **Positive Results**

The MRO is required to review all positive, adulterated, substituted and invalid drug test results provided by the laboratory. The MRO reviews Copy 1 of the Federal Custody and Control form to determine if there are any fatal or correctable errors that may require the test to be cancelled.

The MRO reviews Copy 1 of the Federal Custody and Control form 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.

Positive, adulterated, substituted, or invalid, the MRO will tell the employee the drug(s) for which their specimen tested positive or the basis for the finding of adulteration or substitution.

The MRO will explain the verification interview process to the employee and inform The MRO conducts a confidential verification interview with the employee if the employee wants to discuss the result. The MRO when in contact with the employee will explain to the employee that, if he or she declines to discuss the result, the MRO will be required to verify the test as positive or as a refusal to test because of adulteration or substitution, as applicable.

The MROs staff may conduct this initial contact for MRO under the MROs direction. The staff contact is to schedule the discussion between the MRO and the employee and explain the consequences of the employee declining to speak with the MRO. (i.e., that the MRO will verify the test without input from the employee). If the employee declines to speak with the MRO, the MROs staff person will document the employee's decision, including the date and time.

The MROs staff person may advise an employee to have medical information (e.g., prescriptions, information forming the basis of a legitimate medical explanation for a confirmed positive test result) ready to present at the interview with the MRO.

The MRO will make three attempts spread reasonably during a 24-hour period to contact the employee. If after the 24-hour period and the employee did not contact the MRO, the MRO will contact the DER with a statement that he has made three attempts to contact the employee with no response. The MRO will direct the DER to contact the employee for the employee to call the MRO.

The DER is to make three attempts within the next 24-hour period. If successful contact is made, (talks to the employee) the DER is to notify the MRO that contact was made with documentation of the date and time the contact was made. The DER must inform the employee that he or she should contact the MRO immediately. The DER must also inform the employee of the consequences of failing to contact the MRO within the next 72 hours. The consequences are that the MRO will report the non-negative test event to the DER after 72 hours have passed with if no contact has been made with the MRO.

If the employee does not call the DER within the 24-hour period, the DER may leave a message for the employee such as leaving a voicemail on the employees' personal cell phone, by personal email or by letter by US mail. Because you, the DER, have exhausted all reasonable efforts to contact the employee but failed to do so, you may place the employee on temporary medically unqualified status or medical leave.

Hildale/Colorado City Gas Department may use a C/TPA as its intermediary in receiving drug test results. If so, those reports will be handled in accordance with Part 40 requirements. If the MRO does not use Copy 2 of the CCF for reporting results, the MRO will maintain a copy of the signed or stamped report in addition to the signed or stamped and dated Copy 2. If the MRO uses an electronic data file to report negatives, the MRO will maintain a retrievable copy of that report in a format suitable for inspection and auditing by a DOT representative.

7.2 Reporting of Test Results (MIS)

Each large operator (having more than 50 covered employees which includes contractor companies that perform PHMSA safety-sensitive functions for the Operator.) shall submit an annual MIS report to PHMSA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR part 40 not later than March 15 of each year for the prior calendar year (January 1 through December 31).

The Administrator may require by notice in the PHMSA Portal that small operators (50 or fewer covered employees), not otherwise required to submit annual MIS reports, to prepare and submit such reports to PHMSA.

Each report required under this section must be submitted electronically at <http://damis.dot.gov>. An operator may obtain the user name and password needed for electronic reporting from the PHMSA Portal: <https://portal.phmsa.dot.gov/phmsaportallanding>).

A service agent (e.g., Consortia/Third Party Administrator as defined in 49 CFR part 40) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator's anti-drug manager or designated representative for accuracy and completeness.

7.3 Retention of Samples and Records

Samples that yield positive results on confirmation tests, adulterated, substituted or invalid results must be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures. Within this 365-day period, the employee or the employee's representative, Hildale/Colorado City Gas Department, the PHMSA Administrator, or, if the Company is subject to the jurisdiction of a state.

The laboratory will retain all tests for covered employees for a minimum of two years. Furthermore, any employer-specific data created for the laboratory statistical summary will be retained for two years.

The laboratory will prepare and send the aggregate employers specific summary data on a semi-annual basis. The information provided will follow the reporting requirements as outlined in Part 40, Appendix A.

7.4 Recordkeeping

The following records and time requirements Hildale/Colorado City Gas Department is to keep is outlined below:

One Year

- Records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02.

Two Years

- Records related to the collection process (except calibration of evidential breath testing devices), and training.

Three Years

- Information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees;
- Records that demonstrate the collection process conforms with the regulations;
- Records confirming that supervisors and employees have been trained; and
- Records of decisions not to administer post-accident employee drug and alcohol tests.

Five Years

- Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
- Records of verified positive drug test results;
- Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);
- SAP reports;
- All follow-up tests and schedules for follow-up tests;
- Records that demonstrate compliance with the recommendations of a substance abuse professional, and MIS annual report data;
- And calibration documentation.

In addition, information regarding an individual's drug testing results or rehabilitation must be released upon the written consent of the individual and as provided by DOT Procedures.

Statistical data related to drug testing and rehabilitation that is not name-specific and training records must be made available to the Administrator or the representative of a State agency upon request.