



# DRUG AND ALCOHOL POLICY

**EFFECTIVE DATE:**

January 30, 2010

**REVISION DATES:**

January 30, 2012

August 24, 2016

Updates per 49 CFR Part 40 and 49 CFR Part 655  
Approving Authority Letter

This document sets forth Transit Management of Racine Inc.'s policy on misuse of controlled substances and details Transit Management's substance abuse program, which applies to all employees.

This policy is based on the DOT requirements set forth in the DOT regulation 49 CFR Part 40 and FTA 49 Part 655.

Transit Management requirements, disciplinary actions and FTA mandates are contained in this policy.

On August 24, 2016 the Parking and Transit Commission approved this policy.

Willie E. McDonald  
General Manager



# Transit Management of Racine, Inc.

## Personnel Policy Procedures

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### 1.0 **POLICY**

Transit Management of Racine, Inc. is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. Our employees are our most valuable resource and it is our goal to provide a healthy, satisfying work environment which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from adverse effects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances, and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

### 2.0 **PURPOSE**

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and anti-alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has enacted 49 CFR Part 655, as amended, urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also enacted 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

All provisions set forth in *italics* are under the authority of the Transit System over and above the requirements set forth in 49 CFR Part 655 and Part 40, as amended. The federal government is not responsible for the parts of this policy not mandated by federal regulation.

### 3.0 **APPLICABILITY**

This policy is effective July 1, 2008 and may be modified from time to time as circumstances warrant. This policy applies to all safety-sensitive *and non-safety-sensitive* transit system employees, paid part-time employees, and contractors when they are on transit property or when performing any transit-related business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contractor employees are governed by this policy while on transit premises or conducting transit business and will not be permitted to conduct transit business if found to be in violation of this policy.

Employees who perform safety-sensitive functions will be subject to random testing. A safety-sensitive function is any duty related to the safe operation of Public transit service including the operation, dispatch, and maintenance of a revenue service vehicle (whether or not the vehicle is in revenue service) and any other employee who holds a Commercial Driver's License. A list of safety-sensitive positions is set forth in Appendix A.

### 4.0 **PROHIBITED SUBSTANCES**

#### 4.1 **Illegally Used Controlled Substance or Drugs**

Under the Federal Transit Administration drug testing regulation for safety-sensitive employees, it is required that laboratory testing of urine specimens be conducted for five types of drugs. Identification of either a drug or its metabolite in the urine indicates use of the drug in the recent past. A metabolite is a modified form of a drug that has been chemically altered by the body's metabolic system. Depending upon

the drug and the person's usage habits, the detection period ranges from less than one day to about a month. The FTA regulation requires testing for the following drugs (or their metabolites): marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, and ecstasy (MDMA). Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

4.2 **Legally Prescribed Drugs**

*The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected is prohibited while performing work-related duties and must be reported to supervisory personnel and medical advice should be sought by the employee, as appropriate, **before** performing work-related duties.*

*A legally prescribed drug means that individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. **The misuse or abuse of legally prescribed drugs while performing transit business is prohibited.***

4.3 **Alcohol**

The use of beverages containing alcohol or substances including any medication such that alcohol is present in the body while performing transit business is prohibited. It is prohibited for any employee to have an alcohol concentration of 0.02 or greater as measured by an evidential breath testing device.

4.4 **Alcohol Usage**

Employees are prohibited from alcohol use for four (4) hours prior to performing a safety-sensitive duty, while on-call to perform a safety-sensitive duty, and while performing a safety-sensitive duty. An employee will not be permitted to perform a safety-sensitive function if TMR has actual knowledge that a covered employee has used alcohol within four (4) hours of performing a safety-sensitive function. Employees who are on-call are prohibited from using alcohol. Employees who voluntarily acknowledge using alcohol within four (4) hours of reporting for performing a safety-sensitive function, but claim to be able to perform a safety-sensitive function, will be required to submit to an alcohol test.

4.5 **Alcohol Testing**

A safety-sensitive employee will only be sent for a random or reasonable-suspicion alcohol test while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing safety-sensitive functions.

5.0 **PROHIBITED CONDUCT**

5.1 **Manufacture, Trafficking, Possession, and Use**

The manufacture, distribution, dispensing, possession, or use of illegal substances on transit system premises, in transit vehicles, in uniform, or while on transit system business is prohibited.

5.2 **Compliance With Testing Requirements**

Participation in the Transit Management of Racine, Inc.'s prohibited substance testing program is a requirement of each employee and, therefore, is a condition of employment. All safety-sensitive and *non-safety-sensitive* employees will be subject to urine drug testing and breath alcohol testing. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately, and their employment terminated. Refusal can include an inability to provide a specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

**Definition of Test Refusals**

Test Refusals as Defined by Federal Regulations for Alcohol Tests

- Failure to appear for any test in the timeframe specified by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. (*Except those*

*that required pre-employment testing. Failure to report for testing will result in disqualification as an applicant for employment.)*

- Failure to remain at the testing site until the testing process is completed.
- Failure to provide an adequate amount of saliva or breathe for any alcohol test required by DOT agency regulations.
- Failure to provide a sufficient breath specimen and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
- Failure to undergo a medical examination or evaluation, as directed by the employer as part of the insufficient breath procedures identified in DOT regulations.
- Failure to sign the certification at Step 2 of the ATF.
- Failure to cooperate with any part of the testing process.
- As an employee, if you refuse to take an alcohol test, you incur the same consequences specified under DOT agency regulations for a violation of those DOT agency regulations.

#### Test Refusals as Defined by Federal Regulations for Drug Tests

- Failure to appear for any test in the timeframe specified by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. *(Except those that required pre-employment testing. Failure to report for testing will result in disqualification as an applicant for employment.)*
- Failure to remain at the testing site until the testing process is completed.
- Failure to provide a urine specimen for any drug test required by DOT agency regulations.
- In the case of directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of your provision of a specimen (see 40.67(1) and 40.69(g)).
- For an observed collection, failure 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.
- It will be a failure to test if you possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation that there was no adequate medical explanation for the failure.
- Failure or decline to take an additional drug test the employer or collector has directed you to take.
- Failure 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 40.193(d).
- Failure to cooperate with any part of the testing process (e.g. refuse to empty pockets when directed by the collector, behave in a confrontational manner that disrupts the collection process).
- A drug test result that is verified by the MRO as adulterated or substituted.
- It will be a failure to test if you admit to the collector or MRO that you adulterated or substituted the specimen.
- As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations.

### **5.3 Required Hours of Compliance**

Use and ingestion of prohibited drugs are prohibited and employees must be free of the presence of any prohibited substance at all times while performing work-related duties.

No safety-sensitive or *non-safety-sensitive* employee should report for duty or remain on duty when his/her breath alcohol concentration is 0.02 or greater. No employee shall consume alcohol four hours prior to performing a safety-sensitive function or up to eight hours following an accident or until the employee undergoes a post-accident test, whichever occurs first. Violation of these provisions is prohibited and punishable by disciplinary action as set forth in Appendix B.

### **5.4 Intoxication/Under the Influence**

Any safety-sensitive or *non-safety-sensitive* employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. A drug or alcohol test is considered positive if

the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

**5.5 Treatment Requirements**

All employees are encouraged to make use of the available resources for treatment for alcohol and substance abuse problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse. Any employee who refuses or fails to comply with transit system requirements for treatment, after care, or return to duty shall be subject to disciplinary action, up to and including termination.

**5.6 Notifying the Transit System of Criminal Drug Conviction**

Any employee who fails to immediately notify the transit system of any criminal drug statute conviction in the workplace shall be subject to disciplinary action, up to and including termination.

**5.7 Proper Application of the Policy**

The transit system is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

**6.0 TESTING FOR PROHIBITED SUBSTANCES**

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulation. All safety-sensitive and *non-safety-sensitive* employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident.

*All safety-sensitive employees shall be subject to periodic drug testing.*

In addition, all employees will be tested prior to and after return-to-duty after failing an alcohol test and/or after completion of rehabilitation treatment. Those employees who perform safety-sensitive functions as defined in the attachment to this policy shall also be subject to testing on a random, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended. Urine Specimen Collection Procedures are set forth in Appendix C. Breath Specimen Collection Procedures are set forth in Appendix D.

The drugs that will be tested for are marijuana, cocaine, opiates, amphetamines, phencyclidine, and ecstasy (MDMA). An initial drug screen will be conducted on each specimen. For those specimens that are positive, a confirmatory gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40.

Test for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. An employee who has a confirmed alcohol concentration greater than 0.02 but less than 0.04 will result in removal from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy.

Any employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and evaluated by a Substance Abuse Professional (SAP). A positive drug and/or alcohol test will also result in disciplinary action up to and including termination as provided in this policy.

The transit system affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process.

In accordance with FTA regulations, testing records and results can be released only under the following circumstances:

- When an employee gives written instruction that the transit system may release information or copies of records regarding an employee's test results to a third party or subsequent employer;
- When, due to a lawsuit, grievance, or proceeding initiated on behalf of the employee tested, the result must be released to the decision-maker in the case;
- When an employee provides a written request for copies of his/her records relating to the test(s)(can not be contingent on payment);
- When an accident investigation is being performed by the National Transportation Safety Board (NTSB) and the post-accident test results are needed for the investigation;
- When records are requested by the DOT or any DOT agency with regulator authority over the employer or any of its employees or to a state oversight agency authorized to oversee rail fixed guideway systems.

Transit Management of Racine, Inc. Must ensure that each request for release of information specifically identifies the person to whom the information is to be released, the circumstances under which the release is authorized, and the specific kind of information to be released. This documentation must be maintained for seven (7) years.

A separate release must be signed each time information is to be disclosed.

In cases where records are subpoenaed in criminal or civil suits, required for inspection by the state highway patrol or state transportation safety board, or other freedom of information statues, the transit system will first consult with legal staff regarding jurisdiction over these records before they are released.

Requests for test result information by an unemployment service bureau can be granted, if the individual's dismissal was a result of a positive drug or alcohol test, because the request for unemployment benefits was initiated by the employee.

Drug and alcohol test results can only be release without written consent directly to an authorized representative of the employee's employer of record. FTA recipients that contract out the performance of safety-sensitive functions do not have access to individual test results of their contractor's employees since the recipient is not the employer. Unless the contractor's employee gives specific consent in writing to release the results to the FTA recipient no employee-specific testing information can be provided.

#### **6.1 Pre-Employment Testing**

All safety-sensitive and *non-safety-sensitive* position applicants shall undergo urine drug testing. This includes established employees who are transferring from a non-safety sensitive position into a safety sensitive position or a covered safety sensitive employee who has been out of the random pool for longer than ninety (90) days regardless of the reason(s) for absence. Applicants will be notified of this requirement during the interview process and the test will be given as part of the pre-employment physical. If a pre-employment drug screen is canceled, the applicant must retake the test and have a confirmed negative result before performing safety sensitive duties. Further, if a covered employee or applicant has previously failed a pre-employment drug screen, the employee must present the employer proof of successfully having completed a referral, evaluation and treatment plan as described in CFR Part 655.62.

*It is the policy of Transit Management of Racine, Inc. that any applicant who fails a drug test for any of the five scheduled drugs on a pre-employment test will be disqualified as an applicant for employment.*

#### **6.2 Reasonable Suspicion Testing**

All safety-sensitive and *non-safety-sensitive* employees may be subject to a fitness for duty evaluation, to include appropriate urine and breathe testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances such as; observations concerning the appearance, behavior, speech, or body odors Examples of reasonable suspicion include, but are not limited to the following:

1. Physical signs and symptoms consistent with prohibited substance use.

2. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
3. Blood-shot eyes
4. Slurred speech

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

### **6.3 Post-Accident Testing**

Employees will be required to undergo urine and breath testing if they are involved in an accident with a Racine Transit Commission vehicle (regardless of whether or not the vehicle is in revenue service) that result in a fatality. This includes all employees that are on-duty in the vehicles and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if: an accident results in injuries requiring transportation to a medical treatment facility; or, anytime one or more vehicles receives disabling damage (“damage which precludes the departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repair”), unless the employer determines, using the best information available at the time of the decision, that the covered employee’s performance can be completely discounted as a contributing factor to the accident.

Following an accident, the employee will be tested as soon as possible. If an alcohol test is required by this section and not administered within two (2) hours following the accident, the transit system shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the transit system shall cease attempts to administer an alcohol test and maintain the record. If a drug test required by this section is not administered within 32 hours following the accident, the transit system shall cease attempts to administer a drug test and shall prepare and maintain on file a record stating the reasons the drug test was not promptly administered. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. Employees tested under this provision will include not only the operations personnel, but any other covered employees whose performance could have contributed to the accident.

### **6.4 Random Testing**

Employees in safety-sensitive positions will be subjected to random, unannounced testing. The percentage of safety sensitive employees tested will be determined by the Federal Transit Administration annually. Random selection shall be made by a scientifically valid method and may be done through manual selection as stated in the procedures set forth in Appendix F or by using computerized random selection software. Each covered employee shall have an equal chance of being tested each time selections are made. Random tests will be reasonably spread throughout the year and random testing will be continuous and conducted on all days and hours during which the transit system is in operation. Random test will be unannounced and immediate. Each covered employee who is notified of selection for random drug or random alcohol testing shall proceed to the test site immediately.

### **6.5 Promotion Testing**

Employees being transferred into safety-sensitive positions will be given pre-employment drug and alcohol tests. Employees may not be assigned to the safety-sensitive function unless they pass the tests.

### **6.6 Return-to-Duty Testing**

All safety-sensitive and *non-safety-sensitive* employees who previously tested positive on a drug or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional before returning to work. Employees will be required to undergo frequent unannounced and random urine drug testing and breath alcohol testing during the period of their re-entry contract.



**6.7 Periodic Testing**

*Periodic drug testing will occur when a safety-sensitive employee submits himself/herself to a medical examination. Employees will be notified up to one week in advance of the medical exam. Failure to submit to a periodic test or failing a periodic test will subject an employee to discipline up to and including termination.*

**6.8 Employee Requested Testing**

Any employee who questions the results of a required drug test under paragraphs 6.1 through 6.5 of this policy may request that an additional test be conducted. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are paid by the employer unless the employee requests that a testing DHHS-certified laboratory other than the company contracted testing DHHS-certified laboratory be used. The method of collection, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a re-test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that are beyond the control of the employee.

**7.0 EMPLOYMENT ASSESSMENT**

Any employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be evaluated by a Substance Abuse Professional (SAP). A SAP is a licensed physical psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

Assessment by a SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the transit system. Transit Management of Racine Disciplinary Code should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

If an employee is allowed to return-to-duty, he/she must properly follow the rehabilitation program prescribed by the SAP, the employee must pass return-to-duty drug and alcohol tests, and be subject to unannounced follow-up tests for a period of one to five years. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

**8.0 RE-ENTRY CONTRACTS**

*Employees who re-enter the workforce must agree to a re-entry contract. That contract may include (but is not limited to):*

- 1. A release to work statement from an approved Substance Abuse Professional.*
- 2. A negative test for drugs and alcohol.*
- 3. An agreement to unannounced frequent follow-up testing to include both drugs and alcohol.*
- 4. A statement of expected work-related behaviors.*
- 5. An agreement to follow specified after care requirements with the understanding the violation of the re-entry contract is grounds for termination.*

**9.0**     **SYSTEM CONTACT**

Any questions regarding this policy or any other aspect of the drug-free and alcohol-free transit program should contact the following transit system representative:

Willie E. McDonald     or  
General Manager  
Transit Management of Racine, Inc.  
Inc.  
1900 Kentucky Street  
Racine, WI 53405  
262/619-2443

Gabriel Vargas  
Operations Manager  
Transit Management of Racine,  
1900 Kentucky Street  
Racine, WI 53405  
262/619-2431

It shall be the policy of Transit Management of Racine, Inc. that each employee shall be made aware of this policy. Further, periodic training sessions for employees on substance abuse shall be held. The goal of Transit Management of Racine, Inc. is a 100 percent drug and alcohol free workplace. You are urged to review the procedures of this policy carefully. This policy protects the transit system's most valuable resource -- its employees -- while at the same time protecting the health and safety of the general public.

**10.0**     **EFFECTS OF ALCOHOL**

Information on the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; and available methods of intervening when an alcohol problem is suspected are set forth in Appendix E.

\_\_\_\_\_   
Date

by:

\_\_\_\_\_   
Willie E. McDonald, General Manager  
Transit Management of Racine, Inc.

**APPENDIX A**  
**SAFETY-SENSITIVE POSITIONS**

**Operations Manager**  
**Operations Supervisor**  
**Dispatcher**  
**Full-time Bus Operator**  
**Part-time Bus Operator**  
**Mechanic**  
**Mechanic Helper**  
**Maintenance Clerk**  
**Information Clerk**  
**Grounds Maintenance Personnel**

## APPENDIX B

### TEST RESULTS AND DISCIPLINARY CODE

*Disciplinary action for infractions of the Drug and Alcohol Abuse Policy are as follows:*

A: **DRUG**

**DRUG TEST:**

*Any employee that has a positive drug test.*

**FIRST OFFENSE: When an employee tests positive for controlled substances TMR, Inc. will:**

- *Remove the employee from the safety-sensitive position.*
- *Refer the employee to a Substance Abuse Professional (SAP) for assessment and treatment. An employee referred to a treatment program must successfully complete the program prior to returning to duty. Failure to complete the program or refusal to participate in the program will result in termination of employment.*
- *Ensure that the employee has successfully complied with all return-to duty requirements. Prior to returning to duty, the employee must have a negative test result on a return-to-duty test. Follow-up testing will occur at least six (6) times during the first year, and up to 60 months, to monitor the employee's continued abstinence from drug use.*

**SECOND OFFENSE within Sixty (60) Months: Termination of Employment.**

**TEST REFUSAL:**

*Any covered employee failing to provide a urine sample as required by 49 CFR part 40, as amended, without a valid medical explanation, after he or she has received notice of the requirement to be tested in accordance with the provisions of this subpart, or engages in conduct that clearly obstructs the testing process, including verified adulterated or substituted test results, will constitute a test refusal. .*

**FIRST OFFENSE: Termination.**

**LATE TEST:**

*An employee's unexplained arrival at a specimen collection site more than 30 minutes after the scheduled collection time will be considered the same as a test refusal.*

**FIRST OFFENSE: Termination.**

**DILUTE TEST:**

*Any covered employee's verified test result being reported as negative dilute where the creatinine concentration of the dilute specimen is greater than 5 mg/dl, shall require no further testing (49 CFR Part 40.197).*

*Any covered employee's verified test result being reported as negative dilute where the MRO reports that the creatinine concentration of the specimen was equal to or greater than 2 mg/dl, but less than or equal to 5 mg/dl will be required to submit to a recollection under direct observation (49 CFR Part 40.145 (a)(1)).*

*Verified Negative Dilute [40.197] shall be accepted as a negative result.*

*Verified Positive Dilute [40.197] shall be accepted as a positive result.*

**FIRST OFFENSE – VERIFIED POSITIVE DILUTE: Termination.**

**B: ALCOHOL:**

**TEST RESULT OF 0.02 TO .039**

*Any employee that has an alcohol test result between the level of 0.02 and 0.039 in any category:*

**FIRST OFFENSE:**

- *Remove the employee from the safety-sensitive position.*
- *Refer the employee to a Substance Abuse Professional (SAP) for assessment and treatment.*
- *Employee receives a one (1) day unpaid suspension.*

**SECOND OFFENSE WITHIN ONE (1) Year:**

- *Remove the employee from the safety-sensitive position.*
- *Refer the employee to a Substance Abuse Professional (SAP) for assessment and treatment.*
- *Employee receives a one (3) day unpaid suspension.*

**THIRD OFFENSE WITHIN ONE (1) Year: Termination of Employment and refer the employee to a Substance Abuse Professional.**

**TEST RESULT OF 0.04 OR GREATER**

*Any employee that has a positive alcohol test result of 0.04 or greater in any category:*

**TMR, Inc. is required to:**

**FIRST OFFENSE:**

- *Remove the employee from the safety-sensitive position.*
- *Refer the employee to a Substance Abuse Professional (SAP) for assessment and treatment. An employee referred to a treatment program must successfully complete the program prior to returning to duty. Failure to complete the program or refusal to participate in the program will result in the termination of employment.*
- *Insure that the employee has successfully complied with all re-entry and return-to-duty requirements Prior to returning to duty, the employee must successfully pass return-to-duty testing (less than 0-02 breath alcohol concentration (BAC), agree to a re-entry contract, and subject to follow-up testing during the next sixty (60) months, with six (6) tests being administered during the first twelve (12) months.*

**SECOND OFFENSE WITHIN SIXTY (60) MONTHS OF FIRST OFFENSE: Termination of Employment.**

**TEST REFUSAL:**

*Any covered employee failing to provide adequate breath for testing as required by 49 CFR part 40, as amended, without a valid medical explanation, after he or she has received notice of the requirement to be tested in accordance with the provisions of this subpart, or engages in conduct that clearly obstructs the testing process will constitute a test refusal.*

**FIRST OFFENSE: Termination.**

**LATE TEST:**

*An employee's unexplained arrival at a specimen collection site more than 30 minutes after the scheduled collection time will be considered the same as a test refusal.*

**FIRST OFFENSE: Termination.**

**MANUFACTURE, POSSESSION, OR SALE OF PROHIBITED SUBSTANCES:**

*Any employee engaged in manufacturing, distributing, dispensing, possessing, or using a prohibited substance, including alcohol, while on transit property, while in transit vehicles, while conducting transit business, or while in uniform.*

**FIRST OFFENSE: Termination and notification of law enforcement.**

**NOTIFYING TRANSIT SYSTEM OF CRIMINAL DRUG CONVICTION:**

*Employee must notify the transit system of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.*

**FIRST OFFENSE: Termination.**

**EMPLOYEE RIGHTS:**

*This policy supersedes all previously enacted Substance Abuse Policies. Any disciplinary action as a result of application of this policy would be subject to the provisions of the grievance procedure and arbitration agreement within the terms of the Collective Bargaining Agreement with Teamsters Local 43.*

## APPENDIX C

### Employee Specimen Collection Checklist (For Employees Required to Provide Urine Specimens for Drug Testing)

1. Report to the specimen collection site as soon as possible after notification to report. Refusal to report for collection or refusal to cooperate with the collection process will result in a determination of a refusal to provide a specimen.
2. Show the collection site personnel an official photo identification card, (e.g. driver's license).
3. Check your outer garments with the collection site personnel for safekeeping. You have the right to retain your wallet and to ask for a receipt for your belongings. You must empty your pockets and display the items in your pockets to the collection site personnel to ensure that no items are present which could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the collection site personnel will allow the items to be placed back in the pocket.
4. Rinse and dry your hands.
5. Obtain a wrapped specimen container from the specimen collection personnel.
6. Proceed to the privacy enclosure and provide a specimen in the collection container. At least 45 milliliters of urine are required for analysis. If an insufficient amount of urine is provided, the original specimen will be discarded and you will be required to consume not more than forty (40) ounces of fluids in three (3) hours to provide another specimen. Do not tamper with the specimen or make substitutions. The specimen will be visually inspected for unusual color and sediment.
- 6a. Specimen collection will be witnessed by a collection site employee of the same gender only under the following circumstances: **all return-to-duty and follow-up tests; and if tampering is suspected.**  
**The observer will have the employee raise and lower clothing and then put it back into place for the observed collection. Refusal to follow these instructions will be considered a refusal to test.**
7. The temperature of the specimen will be measured and must fall within an acceptable range. If the temperature falls outside the acceptable range, you will be required to provide a body temperature to counter any suspicion of tampering.
8. Give the specimen to the specimen collection personnel and watch the sealing and labeling of the bottles. Initial the labels verifying that the specimen is yours.
9. You may wish to indicate on the back of your copy of the custody and control form any medications you are currently using. This list may serve as a memory jogger in the event a Medical Review Officer calls you to discuss the results of your test.
10. The results of the laboratory analysis will be forwarded to your employer's Medical Review Officer. If the results are negative (no drugs detected), the MRO will notify your employer. If the laboratory confirms a positive result (drugs detected), the MRO will contact you at the telephone number you provided to give you the opportunity to discuss the test results and to submit information demonstrating authorized use of the drugs in question.

If the MRO verifies a positive result (drugs detected), the employee will be notified by the MRO that the employee has 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO will direct, in writing, the laboratory to ship the split specimen to another DHHS-certified laboratory for analysis.

If the analysis of the split specimen fails to confirm the presence of the drugs(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable or inadequate for testing, the MRO shall cancel the test and report the cancellation and the reasons for it to the DOT, the employer, and the employee.

If the employee has not contacted the MRO within 72 hours of being notified of a verified positive drug test, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from contacting the MRO in time.

IF the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall direct that the analysis of the split specimen be performed.

If the MRO concludes that there is no legitimate explanation for the employee's failure to contact the MRO within 72 hours, then the MRO is not required to direct the analysis of the split specimen to be performed.

IF, after the MRO makes all reasonable efforts (and documents them), and is unable to reach the individual directly, the MRO shall contact the designated employer representative who shall direct the individual to contact the MRO as soon as possible. If, after making all reasonable efforts, the designated management official is unable to contact the employee, the employer may place the employee on temporary unqualified status or medical leave.

Each verified test result will be reported to the person designated by the transit system to receive results. Reporting of a verified positive result is not delayed pending the split specimen analysis.



**APPENDIX D**  
**(REVISED 10/01/2010)**  
**ALCOHOL BREATH TESTING PROCEDURE**

**1. PREPARATION**

Upon arrival at the alcohol collection site, the employee must provide positive identification to the Breath Alcohol Technician (BAT). The identification can be in the form of a company identification card, driver's license, or identification by an employer representative.

After the testing procedures are explained to the employee, the employee and the BAT must complete, date, and sign the alcohol testing form. The employee and the BAT sign the form indicating that the employee is present and providing a breath specimen. Employers may not modify or revise this form, unless the form is directly generated by an Evidential Breath Testing device (EBT) (i.e., the space for affixing a separate printed result is omitted). The form must provide triplicate (or three consecutive identical) copies. Copy 1 (white) must be transmitted to the employer. Copy 2 (green) must be provided to the employee. Copy 3 (blue) must be retained by the BAT.

**2. SCREENING TEST**

The BAT will inform the employee of the need to conduct a screening test. The BAT must open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT.

The BAT will instruct the employee to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. Following the screening test, the BAT must show the employee the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to the employer as a negative test. The employee may then return to this/her safety-sensitive position.

**3. CONFIRMATION TEST**

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading. The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his or her mouth. The BAT will also instruct the employee not to belch to the extent possible while awaiting the confirmation test. The BAT must inform the employee that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an air blank on the EBT. If the reading is greater than 0.00, the BAT shall conduct one more air blank. If the second air blank reading is greater than 0.00, the EBT must not be used to conduct the test.

The confirmation test is conducted using the same procedures as the screening test. A new mouthpiece will be used.

If the initial and confirmatory test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be canceled, and the EBT removed from service.

The BAT will sign and date the form. If the test result is 0.02 or higher, the employee will sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive duties or operate a motor vehicle because the results are 0.02 or greater. The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamperproof tape (unless the results are printed directly on the form).

**4. REPORTING**

The BAT will transmit all results to the employer's designated representative in a confidential manner (in writing, in person, by telephone or other electronic means). In the event an individual must be removed from safety-sensitive duties, the BAT will notify the employer's representative immediately.

**5. INCOMPLETE TEST**

If a screening or confirmatory test cannot be completed, the BAT must, if practicable, begin a new test using a new alcohol testing form with a new sequential test number.

Refusal by an employee to complete and sign the alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the collection process must be noted on the form and the test will be terminated.

If an employee attempts and fails to provide an adequate amount of breath, the BAT must note this on the form and immediately inform the employer. The employer shall direct the employee to obtain, from a licensed physician who is acceptable to the employer, an evaluation concerning the employee's medical ability to provide an adequate amount of breath. The evaluation should be made as soon as practical after the attempted breath test. If the physician indicates there was a valid medical reason for the inadequate amount of breath, the employee's failure to provide an adequate amount of breath will not be considered a refusal. If no valid medical reason is determined, the inadequate amount of breath must be considered a refusal to take the test.

**6. TEST ACCURACY**

To protect the integrity of the test and to ensure accurate results, the procedures for conducting an alcohol breath test are rigorous. Alcohol tests are considered invalid when the following occurs:

- The external calibration check of the EBT produces a result outside the allowed tolerance levels.
- A device other than a National Highway Traffic Safety Administration (NHTSA) approved EBT is used.
- The BAT does not wait 15 minutes between the screening and confirmatory test.
- A valid air blank test that registers 0.00 is not performed before each confirmation test.
- The EBT fails to print the confirmation results, the sequential test number on the EBT is not the same as the number on the printout, or the alcohol concentration displayed on the EBT is different from what is printed out.

## **APPENDIX E**

### **EFFECTS OF ALCOHOL**

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

#### **SIGNS AND SYMPTOMS OF USE**

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

#### **HEALTH EFFECTS**

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defect (up to 54 percent of all birth defects are alcohol related).

#### **SOCIAL ISSUES**

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.

- Alcoholics are 15 time more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents and 76 percent of private aircraft accidents are alcohol related.

#### **THE ANNUAL TOLL**

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accident.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

#### **WORKPLACE ISSUES**

- It takes an hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

**APPENDIX F**  
**LOOKING FOR HELP?**

**HOTLINE NUMBERS:**

**Alcohol & Drug Referral Hotline (800) 252-6465**

**Alcoholism Hotline (800) 888-9383**

**Intervention & Crisis Hotline (800) 255-6111**

**National Cocaine Hotline (800) 262-2463**

**National Council on Alcoholic & Drug Dependence (800) NCA-CALL**

**NATIONAL ASSISTANCE GROUPS:**

**Al-Anon (800) 344-2666**

**Mothers Against Drunk Driving (MADD) (800) 438-6233**

**Center for Substance Abuse Treatment (CSAT) (800) 662-4357**

