

RESOLUTION NO. 2018-04

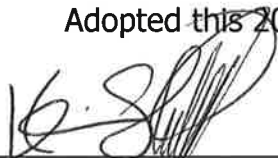
**A RESOLUTION OF THE MASON TRANSIT AUTHORITY BOARD
ADOPTING A REVISED DRUG AND ALCOHOL POLICY.**

WHEREAS, the Mason Transit Authority Board approved and adopted Mason Transit Authority's Drug and Alcohol Policy on February 6, 1996; and

WHEREAS, from time to time, revisions are necessary to be consistent and in compliance with drug and alcohol testing as mandated by the Federal Transit Administration (FTA) and the U.S. Department of Transportation (DOT) in 49 CFR Part 40, and Part 655, as amended;

NOW THEREFORE, BE IT RESOLVED BY THE MASON TRANSIT AUTHORITY BOARD that the revised Policy for Drug and Alcohol, which is attached hereto and incorporated herein, be established and adopted and all previous adopted versions or revisions of POL-301 shall be rescinded in their entirety.

Adopted this 20th day of March, 2018.



Kevin Shetty, Chair



Wes Martin, Vice-Chair



John Campbell, Authority Member



Kevin Dorcy, Authority Member




Terri Drexler, Authority Member




Randy Neatherlin, Authority Member



Deborah Petersen, Authority Member



Don Pogreba, Authority Member



Sandy Tarzwell, Authority Member

APPROVED AS TO CONTENT:



Danette Brannin, General Manager

APPROVED AS TO FORM:



Robert W. Johnson, Legal Counsel

ATTEST:



Tracy Becht, Clerk of the Board

DATE:

3/20/2018



Title:	Drug and Alcohol Policy
Number:	301
Effective:	March 20, 2018
Cancels:	December 19, 2017
Prepared by:	LeeAnn McNulty Administrative Services Manager
Approved by:	Authority Board Resolution No. 2018-04

POL-301 DRUG AND ALCOHOL POLICY

This policy applies in general to all Mason Transit Authority (MTA) employees: full-time, part-time, seasonal, worker/driver, contract employees and contractors when they are on MTA property or when performing MTA-related business off property. Employees who perform safety-sensitive functions, or contractors performing safety-sensitive functions for MTA will be subject to the specific requirements of federal regulations 49 CFR Part 40, published December 11, 2000, and as amended thereafter, and 49 CFR Part 655, published August 9, 2001 and as amended thereafter, issued pursuant to the Omnibus Transportation Employee Testing Act of 1991. Participation in the federally mandated testing program is a condition of performing safety-sensitive functions. This policy also applies to individuals who apply for employment with MTA.

(Underlined text represents locally adopted language that is above the minimums established by the FTA.)

1.0 POLICY STATEMENT

MTA performs a vital public service for our community. To ensure this service is delivered safely, we are dedicated to providing and maintaining a drug and alcohol free working environment in compliance with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employees Testing Act of 1991. It is MTA's policy to:

- Assure that employees have the ability to perform assigned duties in a safe, healthy and productive manner;
- Create a workplace free from the adverse effects of drug abuse and alcohol misuse;
- Prohibit the unlawful distribution, possession or use of controlled substances.

MTA cares about the health and well-being of its employees. We urge anyone who believes they are having an alcohol or chemical dependency problem to seek treatment before their job performance and employment is endangered.

1.1 Purpose

The purpose of this policy is to assure employee fitness for duty and to protect our employees, passengers and the public from risks posed by worker's misuse of alcohol and abuse of drugs. This policy is intended to comply with all applicable federal regulations governing workplace alcohol and drug abuse in the transit industry. Regulations issued by the U.S. Department of Transportation



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and the Federal Transit Administration mandate urine drug testing and evidential breath alcohol testing for safety-sensitive positions. This policy sets forth the MTA substance abuse program and the testing and reporting guidelines for safety-sensitive employees as required by those regulations. This policy also sets forth additional guidelines based on MTA's independent authority for all employees. See Appendix D for a list of abbreviations referenced in this policy.

Copies of this policy will be given to safety-sensitive and non-safety sensitive employees during new employee orientation. Employees will be kept apprised of changes and clarifications through periodic memos. Revised policies will be distributed and receipt certified by safety-sensitive employees. Copies of this Drug and Alcohol Policy will be available in the Administrative Services Department.

1.2 Effects of Drug Use and Alcohol Misuse

The cost of substance misuse/abuse is devastating to society, the workplace, the family, and individuals. Two-thirds of all homicides are committed by people who used drugs or alcohol prior to the crime. Two-thirds of all Americans will be involved in an alcohol-related accident during their lifetime.

The medical costs of illness related to substance misuse/abuse are staggering. Each year 30,000 people die due to alcohol-caused liver disease. Another 10,000 die due to alcohol induced brain disease or suicide.

Symptoms of substance abuse problems include: tardiness, alcohol odor on breath, overreaction to real or imagined criticism, complaints from clients or co-workers, avoidance of associates, lowered job efficiency, confusion, difficulty in concentration, accidents on the job, absenteeism, leaving work early, excessive sick leave, frequent unscheduled short-term absences, and higher absentee rate compared to other workers.

Besides the human costs described above, substance-abusing employees create business costs and legal liabilities for their employers. These costs include:

- Direct and measurable costs, such as the additional health care benefits claimed by substance abusers.
- Less tangible and difficult to measure costs, such as the negative impact on employee morale or the diminished creativity of substance abusing individuals.



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- Potential costs or “liabilities” such as a lawsuit filed by an injured party after an accident caused by the impaired employee.

These costs arise because of the effects of substance abuse in many areas including:

• Employee Health		• Community Relations
• Intoxication		• Neurologic and Liver Damage
• Productivity		• Fetal Alcohol Syndrome
• Sensory Alteration		• Employee Morale
• Decision-Making		• Dependence
• Anxiety Reduction		• Safety
• Security		• Toxic Psychosis

This Drug and Alcohol Policy includes several components for prevention and intervention. To promote a drug free workplace and comply with FTA regulations, MTA provides supervisory and employee education and contracts with EAP (Employee Assistance Program) and SAP (Substance Abuse Professional) services that provide employees access to professionals in addressing substance abuse.

1.3 Applicability

Employees who perform safety-sensitive functions, or contractors performing safety-sensitive functions for MTA, will be subject to the specific requirements of federal regulations and subsequent amendments to 49 CFR Part 40, published December 11, 2000 and as amended thereafter, and 49 CFR Part 655 published August 9, 2001 and as amended thereafter, issued pursuant to the Omnibus Transportation Employee Testing Act of 1991. Participation in the federally mandated testing program is a condition of performing safety-sensitive functions.

Employees shall promptly report to his/her supervisor or to the Drug and Alcohol Program Manager (DAPM) whenever he/she observes or has knowledge of an employee who poses a hazard to the safety and welfare of others. Failure to report may result in discipline.



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Supervisory level staff is required to use and apply all aspects of this policy. Any supervisory level employee 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 discharge.

A safety-sensitive function is any duty related to the safe operation of public transit service as defined in 49 CFR Part 655, including:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- Controlling the dispatch or movement of a revenue service vehicle;
- Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle, or equipment used in revenue service including times when not in revenue service;
- Carrying a firearm for security purposes.

A list of safety-sensitive positions can be found in Appendix B.

1.4 Prohibited Substances

"Prohibited drugs" include cocaine, marijuana, amphetamines (amphetamine, methamphetamine, MDMA, MDA), opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone, phencyclidine (PCP)), and any other substance recognized as a controlled substance in 49 CFR Part 40 or 49 CFR Part 655 as amended. "Prohibited drugs" includes use of or impairment by any illegal drug, misuse of legally prescribed or over-the-counter drugs, and illegally obtained prescription drugs.

"Alcohol" includes the intoxicating agent in alcohol beverage, ethyl alcohol, and other low molecular weight alcohol including methyl and isopropyl alcohol. The use of any beverage or mixture, including any medication, containing alcohol during or prior to performing a safety-sensitive function is prohibited.

The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. However, the use of any substance which carries a warning



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label indicating that mental functioning, motor skills, or judgment will be adversely affected MUST be reported to their department head prior to performing safety-sensitive duties. It is the responsibility of employees to remove themselves from service if they are experiencing any adverse effects from medication that could impair their performance of essential job functions. Legally prescribed drugs must include documentation of the patient's name, the substance name, the quantity to be taken and the period of authorization.

1.5 Prohibited Conduct

In compliance with the Drug Free Workplace Act of 1988, employees are absolutely prohibited from using, manufacturing, dispensing, or distributing prohibited drugs in the workplace or while on duty. Employees are also absolutely prohibited from possessing or being impaired by alcohol or prohibited drugs when reporting for duty, while on duty or when on MTA's premises. Such behavior constitutes a threat to the health, safety and security of themselves, their fellow employees, passengers and other members of the public. Therefore, employees must not report for work or continue working under these circumstances.

Employees who are reasonably suspected of not being fit for duty due to drug or alcohol use shall be suspended from job duties with pay pending an investigation. Employees who fail to pass a drug or alcohol test shall be removed from duty immediately and subject to disciplinary action, up to and including discharge.

Drug Use: Reporting to work with any of the drugs identified in Section 1.4 in their system is prohibited at all times for safety-sensitive employees.

Alcohol Use: No safety-sensitive employee shall report for duty within four hours of using alcohol, just before, during or just after performing safety-sensitive duties, or use alcohol while subject to being on call. In addition, unless the employee's contribution to the accident can be completely discounted, non-safety-sensitive and safety-sensitive employees involved in an accident in a revenue or non-revenue vehicle as defined by the FTA regulations shall abstain from alcohol consumption until he or she has been tested or until eight hours has elapsed, whichever occurs first. A positive alcohol test under Mason Transit Authority is defined under this policy as a blood alcohol concentration of 0.02



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and above on an evidentiary breath-testing device. A positive test under FTA authority is defined under this policy as a blood alcohol concentration greater than 0.04 on an evidentiary breath testing device.

1.6 Compliance with Testing

Safety-sensitive employees who refuse to comply with a request for drug and/or alcohol testing under the circumstances defined in Section 2.3 Types of Testing, shall be removed from duty immediately under FTA authority. Non-safety-sensitive employees under the same circumstances will be removed from duty immediately under MTA authority. Refusal to comply with a request for testing includes:

- Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the Employer;
- Failure to remain at the testing site until the testing process is complete;
- Failure to provide a breath sample or urine specimen for any required breath or drug test;
- Failure to permit the observation or monitoring of the specimen collection when required to do so;
- Failure to provide a sufficient amount of urine when directed and there is no adequate medical explanation for the failure;
- Failure to take a second test when directed to do so by the Employer or collector;
- Failure to undergo within five days a medical examination by a licensed physician acceptable to the Medical Review Officer (MRO), who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen when directed to do so by the MRO or employer;
- 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 way that disrupts the collection process, failure to wash hands after being directed to do so by the collector, or refusal to sign the test);



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- Failure to follow the observer’s instructions during an observed collection including 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 or MRO that you adulterated or substituted the specimen;
- The MRO reports that you have a verified adulterated or substituted test result;
- Failure to sign step 2 of the alcohol test form;
- Failure to remain at the scene of an accident without just cause prior to submitting to a test.

Such refusals will be treated as a positive test, with the employee subject to discharge. The employee will be referred to a Substance Abuse Professional for evaluation. Referrals do not preclude the employee from being subject to discharge.

2.0 TESTING FOR PROHIBITED SUBSTANCES

Under FTA authority, all safety-sensitive employees and applicants for safety-sensitive positions with MTA will be subject to testing under the following circumstances; (1) prior to employment, (2) reasonable suspicion, (3) on a random, unannounced basis, and (4) following an accident as defined in Section 2.3(c).

2.1 Confidentiality

MTA will carry out this policy in a manner that respects the dignity and confidentiality of those involved. Confidentiality is maintained throughout the drug/alcohol testing process from notification of the request to test, to collection of the required specimens, to notification of results.

A. Maintenance of Records

The Administrative Services Department will maintain records of results in the strictest of confidence in a locked file cabinet separate from the



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official personnel file. In cases where disciplinary action results from a positive test, such information is shared only with those in a supervisory capacity directly involved in the disciplinary decisions related to the test result.

B. Release of Records

Testing records and results will be released only to those authorized by the FTA rules to receive such information or as required by law. This includes:

- a) The employee, if requested in writing.
- b) The National Traffic Safety Board (NTSB), if they are investigating an accident.
- c) Certain legal proceedings on behalf of the employee and arising from the result of a drug or alcohol test administered under FTA rules, including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.
- d) A court of competent jurisdiction or the decision-maker in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, if the court determines that the drug or alcohol test information is relevant to the case and issues an order directing the employer to produce the information. In such a proceeding, the information will be released only with a binding stipulation that the decision-maker to whom it is released will make it available only to parties to the proceeding.
- e) DOT agency or State Oversight Agency authorized by the DOT.
- f) Other DOT employers when a current or former employee is an applicant for a safety-sensitive position within two years of their MTA employment.
- g) Subsequent employers, if requested in writing by the employee.
- h) Other identified persons as requested in writing by the employee.



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C. Reporting to Washington State Department of Licensing (RCW 46.25)

In accordance with the provisions of RCW 46.25, MTA shall report positive drug test results and refusals to test of current CDL holders for tests conducted under the authority of the FTA regulations 49 CFR Part 655 to the Washington State Department of Licensing under the following circumstances:

- a) An employee is terminated or resigns.
- b) An employee has not been cleared to return to performing safety sensitive functions.

Also in accordance with this regulatory requirement, MTA's MRO shall report all positive pre-employment drug test results or refusals to test for current CDL holders to DOL after consultation with MTA's Drug and Alcohol Program Manager to confirm applicability of the regulation.

Individuals whose positive test results or refusals to test are reported to DOL will be subject to the consequences outlined in the RCW 46.25.

2.2 Methodology

Testing will be conducted in accordance with 49 CFR, Part 40, as amended, and in a manner to assure a high degree of accuracy and reliability by using the techniques, chain of custody procedures, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services as called for in the federal regulations. Both alcohol and drug testing will be conducted in an environment that affords maximum privacy as described in 49 CFR Parts 40 or 49 CFR Part 655 as amended.

Specimen collection for urine drug testing will occur at a collection site designated by MTA. Collection will be conducted according to procedures outlined in 49 CFR Part 40 and 49 CFR Part 655 as amended.

- A. Analytical urine testing will be conducted at a DHHS certified laboratory for marijuana, cocaine, opioids, amphetamines, phencyclidine and any other substance recognized as a controlled substance in 49 CFR Part 40 or 49 CFR Part 655 as amended. An initial drug screen will be conducted on each specimen after a split sample is provided to the laboratory. In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. Mason Transit Authority guarantees that the split specimen test will



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be conducted in a timely fashion. A positive test result, at or above the minimum thresholds set forth by federal regulations in 49 CFR Part 40 or 49 CFR Part 655 as amended and verified by the MRO, will be considered a violation of this policy and will constitute a failure to pass a drug test. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

Tests for alcohol concentration will be conducted using National Highway Traffic Safety Administration (NHTSA) approved evidential breath-testing devices operated by breath alcohol technicians trained to proficiency on the particular EBT they are using. Equipment will be maintained according to the quality assurance plan developed for the particular piece of equipment. The collection process will be conducted according to procedures set forth in 49 CFR Part 40 Subpart J-N. A US Department of Transportation Breath Alcohol Testing Form will be completed with each collection. In accordance with the regulations an employee who tests at 0.02 or above will be retested within 15 to 30 minutes of the first test. This second test is considered a confirmatory test. A confirmed alcohol concentration of 0.02 or greater will be considered a positive alcohol test, a violation of this policy, and will constitute a failure to pass an alcohol test. In the event an employee is unable to provide an adequate breath sample, within five days, the employee must seek an evaluation from a licensed physician acceptable to the MRO, who has expertise in the medical issues raised by the employee's failure to provide a sufficient breath sample to determine if there is a reasonable explanation for the employee's inability to provide an adequate amount of breath. If the physician determines there is no reasonable explanation, the employee's inability will be recorded as a refusal to take the test and a violation of this policy.

- B. An employee who tests positive for drugs or alcohol will be removed immediately from safety-sensitive job duties and informed about educational and rehabilitation programs available, and referred to a



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Substance Abuse Professional (SAP). The SAP will evaluate the employee to determine what assistance, if any, the employee needs in resolving problems associated with substance abuse. The SAP must make a recommendation for education or treatment for every referred individual who has violated a DOT drug and alcohol regulation. Assessment by a SAP does not protect an employee from disciplinary action or guarantee employment. A positive drug or alcohol test will result in disciplinary action up to and including discharge as outlined in Discipline 5.0 of this policy.

2.3 TYPES OF TESTING

A. Pre-employment/Pre-Transfer Testing (49 CFR Part 655)

Applicants for all safety-sensitive positions shall undergo urine drug testing prior to employment. Receipt by the agency of verified negative test results is required prior to performance of safety-sensitive functions and failure to pass will disqualify an applicant.

Employees transferring from a non-safety-sensitive to a safety-sensitive position shall undergo urine drug testing prior to appointment to the new position. Test results must be negative in order for the appointment to take place.

If a pre-employment drug test is cancelled or the results are negative dilute, the applicant will be required to complete another DOT test with a verified negative result in order for the appointment to a safety-sensitive position to occur. Applicants, who have failed a DOT drug and/or alcohol test for a previous DOT covered employer, must provide proof of a referral to an SAP, a substance abuse evaluation, and successful completion of the prescribed rehabilitation program prior to appointment to the safety-sensitive position.

Covered employees who have not performed safety-sensitive functions for 90 consecutive calendar days, regardless of the reason, and have not been in the random pool, shall undergo pre-employment drug testing prior to returning to performing safety-sensitive work. The results must be verified negative.



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B. Reasonable Suspicion Testing (49 CFR Part 655)

Under FTA authority, safety-sensitive employees are subject to a fitness-for-duty evaluation including a drug and/or alcohol test when there is a reason to suspect they are under the influence of any of the prohibited drugs while on duty, or have used alcohol immediately prior to, or during, or immediately after performing safety-sensitive duties or while on the property, in agency vehicles or in agency uniform. Non-safety sensitive employees are also subject to a fitness-for-duty evaluation including drug and/or alcohol testing in these same circumstances under MTA authority. A referral for testing will be made on the basis of documented objective facts and circumstances. Supervisory personnel who are trained to detect signs and symptoms of drug and alcohol use will make such referrals. Employees in safety-sensitive positions will be tested for on or off-duty drug or alcohol use when there is reasonable suspicion of on-duty impairment supported by (1) evidence of specific personal observations concerning job performance, appearance, behavior, speech or bodily odors of the employee or direct observation of drug or alcohol use; (2) a pattern of abnormal conduct or erratic behavior; (3) arrest or conviction for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking; (4) information provided either by reliable and creditable sources or independently corroborated; or (5) newly discovered evidence that the employee has tampered with a previous drug test. Safety-sensitive employees will be removed immediately from performing safety-sensitive functions and subject to discipline as outlined in Section 5.0 Discipline of this policy.

Non-safety-sensitive employees who are reasonably suspected of not being fit for duty due to drug or alcohol use shall be suspended from job duties with pay pending the outcome of an investigation. Such employees who fail to pass a drug or alcohol test shall also be subject to disciplinary action, up to and including discharge.



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C. Post-Accident Testing (49 CFR 655)

a) Accident:

The occurrence associated with the operation of a vehicle, if as a result:

1. An individual dies, or;
2. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
3. With respect to an occurrence in which the public transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or

b) Fatal Accident:

As soon as practicable following an accident involving the loss of human life, and regardless of fault, each surviving employee performing safety-sensitive functions in the transit vehicle at the time of the accident, and any other covered employee whose performance could have contributed to the accident (as determined by MTA using the best information available at the time of the decision), shall be tested for alcohol and prohibited drugs.

c) Non-Fatal Accidents:

As soon as practicable following an accident not involving the loss of human life in which a transit vehicle is involved, each employee performing safety-sensitive functions in the transit vehicle at the time of the accident shall be tested for alcohol and prohibited substances unless MTA determines using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. Any other employee whose performance could have contributed to the accident (as determined by MTA



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using the best information available at the time of the decision) shall also be tested for alcohol and prohibited substances. If an alcohol test required by this section is not administered within two (2) hours following the accident, MTA 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 (8) hours following the accident, the employer shall cease attempts to administer an alcohol test and shall maintain records on why the test was not performed. Likewise, if a drug test has not been performed within 32 hours, the employer must cease attempts to conduct the drug test and document why the test was not administered.

D. Random Testing (49 CFR Part 655)

Employees in safety-sensitive positions will be subject to random, unannounced testing. Selection of employees for random testing shall be made by a scientifically valid, computer based, random number generator that is matched to the employee's social security number. All covered employees will have an equal chance of being tested each time a selection is made. Testing will be continuous throughout the year and conducted on all days and hours during which MTA is in operation. Each year MTA will conduct the number of tests required to meet the established federal minimum rates for drug and alcohol. These percentage rates are subject to change by direction of the Federal Transit Administration.

Random drug and alcohol testing will be unannounced and unpredictable. Employees selected for testing will receive a Letter of Notification and will report immediately to the appropriate testing site. Alcohol testing will only occur while the employee is performing safety-sensitive functions, just prior to performing such functions or just after an employee has completed performing such functions. Drug testing will occur anytime while that employee is on duty.

E. Return to Duty Testing (49 CFR Part 655)

Under FTA authority safety-sensitive employees who previously tested positive on a drug or alcohol test or who refused to submit to a test and



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who, under the discipline policy are allowed to return to work, will be subject to testing for either drugs or alcohol or both prior to being released for duty by a Substance Abuse Professional. Test results must be negative. This same provision holds true for non-safety-sensitive employees under MTA authority.

F. Follow-up Testing (49 CFR Part 655)

Employees who are allowed to return to work following a violation of this policy will be required to undergo frequent random drug and/or alcohol testing during the period of their re-entry with a minimum of six (6) randomly scheduled tests during the first twelve (12) months following their return. The Substance Abuse Professional will recommend the frequency and duration of the testing. (See Section 5.0 Discipline.)

2.4 Retests and Observed Tests

Employees who have a verified positive drug test result or a test refusal due to adulteration or substitution may request a test of their split specimen within 72 hours of notification, as all specimens are split and the non-tested portion is stored for a period of time. The procedure for requesting this test may be obtained from the Administrative Services Manager. Employees do not have access to a test of their split specimen following an invalid result.

There are certain situations that may require the employee to provide, at the collection site, another urine or breath sample, i.e., when insufficient volume or breath provides an inadequate sample, or the technician has reason to suspect tampering with the specimen. Under the latter circumstances, a second collection may be under observed conditions.

Under DOT authority (49 CFR Part 40.) when MTA receives a report from its Medical Review Officer that the lab has reported a negative dilute test result with a creatinine level of 2 mg/dL or above but less than or equal to 5 mg/dL, that employee will be directed to undergo a recollection under direct observation. If the employee is on duty at the time of the report, they will be removed immediately from performing safety-sensitive functions and directed to report to the collection site for the observed recollection. If the employee is not on duty when the report is received, they will be directed to report immediately to MTA's collection site for the recollection when they next report for duty. The result of this recollection test will be the result of record for reporting and



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disciplinary purposes. When MTA receives an MRO determination reporting a negative test result with a dilute specimen outside those parameters requiring retesting, the test will be treated as a negative test and no retesting will be required.

Observed collections are required pursuant to 49 CFR Part 40 in the following circumstances:

- A. Return-to-Duty tests;
- B. Follow-up tests;
- C. Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;
- D. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- E. Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- F. Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
- G. Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device. The observation must be made by an individual of the same gender as the donor. The observer must view urine stream from the donor to collection container.



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2.5 Medical Review Officer (MRO)

MTA will establish a contractual relationship with a qualified Medical Review Officer who is a licensed physician with knowledge of substance abuse disorders and who has met the qualification training requirements outlined in 49 CFR Part 40 Subpart G. The MRO or authorized staff will personally review at least 5% of all custody/control forms quarterly. In addition, the MRO will review and interpret confirmed positive test results, examining alternative medical explanations for these results. Prior to verifying a positive test, the MRO will contact the affected employee to discuss the test results and provide an opportunity to offer a legitimate medical reason for the test results. If the MRO determines the test is a verified positive, the MRO will contact both the MTA Program Manager and the employee with that determination. MTA's MRO will fully comply with the role and responsibilities prescribed in Subpart G of 49 CFR Part 40.

2.6 Substance Abuse Professional (SAP)

MTA will contract with a qualified Substance Abuse Professional (SAP) to evaluate employees who have violated this policy to determine whether they need help in resolving problems associated with drug abuse and/or alcohol misuse. The SAP shall be a licensed physician (Medical Doctor or Doctor of Osteopathy) or a licensed or certified psychologist, social worker, or employee assistance professional; or an addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse). The SAP shall have knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substance-related disorders. MTA's SAP will recommend education or treatment for all employees referred for violation of DOT drug and alcohol regulations.

3.0 DRUG-FREE WORKPLACE ACT OF 1988

In compliance with the Drug-Free Workplace Act of 1988 the distribution, dispensing, possession or use of a controlled substance is prohibited at MTA. Employees violating this prohibition will be disciplined up to and including discharge. Also, all employees are required to notify MTA of any conviction under a criminal drug statute for violations occurring on or off MTA property within five days of conviction and any moving violation involving drugs or alcohol causing the suspension or revocation of the employee's



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driver's license. Failure to report such a conviction will result in discipline, up to and including discharge. MTA will notify FTA within ten days after receiving notice of such conviction. MTA will conduct a drug-free awareness program informing employees about the dangers of drug abuse in the workplace and available substance abuse counseling, rehabilitation and employee assistance programs.

4.0 EMPLOYEE ASSISTANCE PROGRAM (EAP)

MTA supports employees who volunteer for treatment of alcohol misuse or drug abuse. Alcoholism and drug dependency are treatable illnesses and can be successfully dealt with if identified in their early stages and referred to an appropriate source for treatment. Indications of alcohol misuse and drug abuse can include extreme changes in personality, problems with other employees, interrupted or changing sleep patterns, attendance problems, concealment of social habits involving drugs and alcohol, and family problems. Continued alcohol and drug dependency can lead to deteriorating health.

MTA encourages employees to seek treatment voluntarily and makes available the Employee Assistance Program. Any employee, who comes forth and notifies the agency of alcohol or chemical abuse problems prior to violating any of the prohibited conduct rules, will be given the assistance extended to employees with any other illness. Sick leave, vacation leave or leave of absence without pay may be granted for treatment and rehabilitation as in other illnesses, and insurance coverage for treatment will be provided to the extent of similarly benefited individual coverage.

While MTA is anxious to assist employees with alcohol or chemical dependency problems, employees are expected to remember that safety is our first priority. Therefore, employees must not report for work or continue working if they are under the influence of, or impaired by, alcohol or any controlled substance. Violations of this policy will result in disciplinary action (see Discipline section) regardless of whether or not an employee is participating in a treatment program. Such employees are expected to observe all other job performance standards and work rules, including attendance, required of all employees.

5.0 DISCIPLINE – CONSEQUENCES OF POLICY VIOLATIONS

Under FTA regulations, discipline for program violations is determined at the local level. The MTA discipline policy for prohibited conduct is as follows. Individual circumstances involving a positive test may merit action, up to and including discharge:



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- 5.1 Any employee who tests positive for alcohol at a 0.02 alcohol level or higher will be removed from duty, given a list of treatment resources available for evaluating and resolving drug and alcohol problems, referred to the SAP, and discharged.
- 5.2 An employee who has volunteered for treatment and has a positive result under any testing circumstances will be discharged.
- 5.3 Any safety-sensitive employee who tests positive from reasonable suspicion or post-accident testing for the presence of drugs will be subject to discharge.
- 5.4 Any employee who tests for alcohol at a level above 0.00 but below 0.02 will be provided information about the EAP.
- 5.5 Any safety-sensitive employee who refuses to comply with a request for testing will be subject to discipline for insubordination and discharged.

6.0 EDUCATION AND TRAINING

The effects of controlled substance abuse and alcohol misuse negatively impact an individual's personal and work experience. If you believe you have a substance abuse or alcohol misuse problem, please contact the following agencies in Mason County:

- Crisis Clinic of Mason/Thurston Counties (360) 586-2800
- Mason County Drug Abuse Prevention (360) 427-1686

It is the policy of MTA to make training and education programs available to all agency employees. All safety-sensitive employees will receive 60 minutes of training on the effects of drugs and alcohol on the body, the major elements of the DOT drug testing regulations, and MTA's Drug and Alcohol Policy, and resources for dealing with a substance abuse problem. The training will also provide detailed information on alcohol misuse, specifically as it impacts an individual's biological, emotional, and psychosocial well-being. The effects of misuse can be seen in an individual's work performance, attitude and social interaction.

Supervisors, managers, and union officials will receive a minimum of two (2) hours of instruction on how to identify the signs of drug and/or alcohol use or impairment and MTA's reasonable suspicion investigation process.



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ACKNOWLEDGEMENT OF MASON TRANSIT AUTHORITY DRUG AND ALCOHOL TESTING POLICY

I, _____, hereby acknowledge that I have received a copy of the revised MTA Drug & Alcohol Policy mandated by the U.S. Department of Transportation, Federal Transit Administration, for all covered personnel who perform a safety-sensitive function.

I understand this policy is required by and conforms to 49 CFR PART 655, as amended, and has been duly adopted by the governing body of MTA. Any provisions contained herein which are not required by either 49 CFR Part 655 or 49 CFR Part 40, as amended, and have been imposed solely on the authority of MTA designated as such in the policy.

I also affirm my understanding that compliance with all provisions contained in this policy is a condition of my initial and continued employment. By accepting employment or continuing to be employed by MTA in a safety-sensitive position, I am giving my consent to submit to testing for alcohol and drugs as specified in this policy and the regulations upon which it is based.

I hereby agree to comply with all requirements of MTA policy and USDOT regulations 49 CFR 655 and 49 CFR 40 with regard to implementation and execution of their substance abuse programs.

I further understand that the information contained in the approved policy is subject to change, and that any change or addendum to this policy shall be provided to me in a manner consistent with the provisions of 49 CFR Part 655, as amended.

Please sign and date this certification and return it to the Administrative Services Manager.

Employee Name (Print)

Witness Name (Print)

Employee Signature

Witness Signature

Date

Date