

FTA DRUG AND ALCOHOL TESTING POLICY RAINBOW RIDER TRANSIT BOARD

Brenda Brittin, Transit Director



**Policy Adopted on July 11, 2019
Revised and Effective on June 21, 2019**

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

Page 1 of 21

FTA DRUG AND ALCOHOL TESTING PROGRAM

TABLE OF CONTENTS

1. PURPOSE	3
2. APPLICABILITY.....	3
3. DEFINITIONS.....	3-6
4. EDUCATION AND TRAINING.....	6
5. PROHIBITED SUBSTANCES.....	7
6. PROHIBITED CONDUCT.....	7-8
7. DRUG TESTING PROCEDURES.....	8-9
8. ALCOHOL TESTING PROCEDURES.....	10
9. PRE-EMPLOYMENT TESTING.....	10
10. REASONABLE SUSPICION TESTING.....	11
11. POST-ACCIDENT TESTING.....	12
12. RANDOM TESTING.....	13
13. RESULT OF A NEGATIVE DILUTE DRUG TEST.....	14
14. BEHAVIOR THAT CONSTITUTES A TEST REFUSAL.....	15
15. RESULT OF POSITIVE DRUG/ OR ALCOHOL TESTING.....	16
16. DISCIPLINARY ACTION	16
17. GRIEVANCE AND APPEAL.....	17
18. INFORMATION DISCLOSURE.....	17
19. SAFETY-SENSITIVE POSITIONS.....	18
20. POLICY MODIFICATION.....	18
21. CONTACT INFORMATION.....	19-20

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

1. PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing drug and alcohol testing programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published Title 49 Code of Federal Regulations (CFR) Part 655, that mandates urine drug testing and breath alcohol testing for employees that perform a safety-sensitive function and prohibits performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published Title 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655. Any covered employee who refuses to comply with a request for testing shall be removed from duty and referred for evaluation by a Substance Abuse Professional (SAP) in accordance with Part 40, as amended and terminated from employment.

Copies of Parts 655 and 40 are available by contacting the DAPM listed in this policy and can be found on the internet at the Office of Drug & Alcohol Policy & Compliance website <http://www.dot.gov/odapc/index.html>.

2. APPLICABILITY

This policy applies to all covered employees (full-or part-time) of Rainbow Rider Transit while performing any safety-sensitive functions. A safety-sensitive function is any duty related to the safe operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, persons controlling the movement of revenue service vehicles, and any other transit employee who is required to hold a Commercial Driver's License. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment. Supervisors are only safety-sensitive if they perform one of the above functions.

A drug test can be performed any time a covered employee is on duty. An alcohol test can be performed just before, during, or just after performance of safety sensitive job function.

3. DEFINITIONS

Accident. An occurrence associated with the operation of a vehicle, if as a result:

- ◆ An individual dies;

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended. All underline provisions are set forth under the authority of the transit employer.

- ◆ An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- ◆ One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle.

Adulterated specimen. A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, or medication.

Alcohol Concentration (BAC). Expressed in terms of grams of alcohol per 210 liters of breath as measured by breath-testing device.

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

Commercial Driver's License (CDL). Vehicles with sixteen or more passengers (including the driver), and vehicles with a Gross Vehicle Weight of more than 26,000 pounds are considered a commercial motor vehicle, which requires the driver to have a commercial driver's license to operate that vehicle.

Covered Employee. An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function.

Designated Employer Representative (DER). An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 655 and 40, as amended. Service Agents cannot act as DERs.

Department of Transportation (DOT, The Department, DOT Agency).

These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For the purposes of this part, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes only since the USCG regulation does not incorporate Part 40 for its alcohol-testing program. These terms include any designee of a DOT agency.

Dilute specimen. A specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage. Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.

- › Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated.
- › It does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that make them inoperative.

Evidential Breath Testing Device (EBT). A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Medical Review Officer (MRO). A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute. A drug test result which is negative for the five drug/drug metabolites, but has creatinine and specific gravity values lower than expected for human urine.

Negative test result. A verified presence of the identified drug or its metabolite below the minimum levels or absence of same as specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative drug test result. A test result found to be adulterated, substitute, invalid, or positive for drug metabolites. Non-negative results are considered a positive test or refusal to test if MRO cannot determine legitimate medical explanation.

Performing a safety-sensitive function. A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive test result. A verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BAC or greater.

Prohibited drugs. The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP) and opioids, at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Revenue Service Vehicles All transit vehicles that are used for passenger transportation service or All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.

All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

Page 5 of 21

that require a CDL to operate. Includes all ancillary vehicles used in support of the transit system.

Safety-sensitive functions means any of the following duties, when performed by employees of recipients, subrecipients, operators or contractors;

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

Substance Abuse Professional (SAP). A licensed physician (medical doctor or doctor of osteopathy) or state licensed or certified family and marriage therapist, psychologist, social worker, employee assistance professional, or addiction counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap> with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen. A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Verified negative drug test. A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (DHHS).

Verified positive drug test. A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as amended.

Validity testing. 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.

4. EDUCATION AND TRAINING

Every covered employee will receive a copy of this policy and will have access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine covered employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.

All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

Page 6 of 21

behavioral, and performance indicators of probable prohibited drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

5. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following.

- A. The illegal use of Controlled Substances is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Food and Drug Administration. Prohibited use includes use of any prohibited drug, misuse of legally prescribed drugs, and the use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which can cause drug or drug metabolites to be present in the body above the minimum thresholds, is a violation of this policy.

Federal Transit Administration regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- B. Prescription and Over-the Counter Medications (Rx/OTC): The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. Please refer to Rainbow Rider's Over-The-Counter & Prescription Drug Policy for additional information regarding the requirements for using and reporting the use of Rx/OTC drugs.

Effective January 1, 2018, a MRO may review the use of Rx/OTC medications that may create a 'significant safety risk' and may deem the employee to be "medically unqualified." In such cases, the MRO must provide the employee up to 5 business days, after reporting a verified negative result, to facilitate a discussion with the prescribing physician in order to determine if the medication can be changed to one that does not make the employee medically unqualified, or that does not pose a significant safety risk, before reporting the significant safety concern to the employer.

- C. Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions.

6. PROHIBITED CONDUCT

- A. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- B. Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report to duty.

The covered employee will subsequently be relieved of their on-call responsibilities.

- C. The employer shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- D. Each covered employee is prohibited from the performance of safety-sensitive functions while having a breath alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
- E. No covered employee shall consume alcohol for eight (8) hours following an involvement in an accident or until they submit to the post-accident drug and alcohol tests, whichever occurs first.
- F. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

Refer to transit systems personnel policy to determine the additional consequences for policy violations.

7. DRUG TESTING PROCEDURES

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 set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedures, and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Federal Drug Testing Custody

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.

All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

Page 8 of 21

and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified 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. The employer will guarantee that the cost for the split specimen test is covered in order for a timely analysis of the sample; however the employer will seek reimbursement for the cost of the split specimen test from the covered employee.

OBSERVED COLLECTIONS:

Consistent with 49 CFR Part 40, as amended, observed collections are required in the following circumstances:

- A. Anytime the laboratory reports to the MRO that a specimen is invalid and the MRO reports that there was not an adequate medical explanation for the result;
- B. Anytime that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- C. Anytime the collector observes materials brought to the collection site or the covered employee's conduct clearly indicates an attempt to tamper with a specimen;
- D. Anytime the temperature on the original specimen was out of the accepted temperature range of 90°F – 100°F;
- E. Anytime the original specimen appeared to have been tampered with;
- F. Anytime the specimen is negative-dilute with a creatinine concentration greater than or equal to 2 mg/dl but less than or equal to 5 mg/dl, and the MRO reports the specimen as negative dilute and requires a second collection under direct observation (see §40.197(b)(1));
- G. All Return-To-Duty and Follow-up Tests

The covered 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.

8. ALCOHOL TESTING PROCEDURES

Tests for breath 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). Alcohol screening tests may be performed using a non-evidential testing device, which is also approved by NHTSA. 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. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT printout, along with Federal alcohol testing form, will be used to document the test, the subsequent alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee.

A covered employee who has a confirmed breath alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The employee will be immediately removed from safety-sensitive duties, and will be referred to a SAP for evaluation and terminated from employment.

Any covered employee who refuses to test for drugs or alcohol as required shall be removed from performing safety-sensitive duties, and referred to a SAP for evaluation and terminated from employment.

A test result for a covered employee who has a confirmed breath alcohol concentration of 0.02 or greater, but less than 0.04 is not considered positive, however the employee shall still be removed from performing safety-sensitive duties for at least eight (8) hours, unless a retest results in the employee's alcohol concentration of less than 0.02.

An breath alcohol concentration of less than 0.02 will be considered a negative test.

9. PRE-EMPLOYMENT TESTING

All applicants for covered safety-sensitive positions shall undergo urine drug testing prior to hire or transfer into a covered position that requires the performance of a safety-sensitive function.

- A. All offers of employment of covered positions shall be extended conditional upon the applicant passing a drug test. An applicant shall not be hired into a covered position unless the applicant takes a drug test with a verified negative results.
- B. A non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test with a verified negative results.
- C. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional (SAP). Evidence of the absence of drug dependency from a

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended. All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

Page 10 of 21

Substance Abuse Professional that complies with 49 CFR Part 40, as amended, and a verified negative drug test result will be required prior to further consideration for employment in a covered position.

- D. When an employee, being placed, transferred, or promoted from a non-covered position to a covered position, submits a drug test with a verified positive result, the transfer/promotion offer will be rescinded, the employee will be referred to a Substance Abuse Professional and the employee shall be subject to disciplinary action. Refer to the DISCIPLINARY ACTION section in this policy to determine the consequences for policy violations.
- E. If a pre-employment/pre-transfer test is canceled, the applicant will be required to take another pre-employment drug test with a verified negative result.
- F. In instances where a covered employee is on extended leave for a period of 90 consecutive calendar days or more and is taken out of the random testing pool, the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have a verified negative test result prior to performing safety-sensitive job functions.
- G. Applicants are required to report previous DOT-regulated employment, in accordance with 49 CFR Part 40, as amended. Failure to do so will result in the employment offer in a covered position being rescinded.
- H. All applicants that have had a prior DOT positive drug test result a DOT breath alcohol test result with a concentration of 0.04 or greater or have refused a previous DOT drug or alcohol test request, must provide the employer proof of having successfully completed a referral, evaluation, and treatment administered under DOT regulations.

10. REASONABLE SUSPICION TESTING

All covered employees shall be subject to a drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty
Covered employees may be subject to reasonable suspicion alcohol testing 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 such functions.

A covered employee who refuses an instruction to submit to a drug and/or alcohol test will be removed from performing safety-sensitive duties, and referred to a Substance Abuse Professional
All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.

All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

Page 11 of 21

(SAP) in accordance with Part 40, as amended and terminated from employment.

A written record of the observations which led to a drug and/or alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor or other company official trained in making these observations. This written record shall be submitted to the Designated Employer Representative (DER).

11. POST-ACCIDENT TESTING

All covered employees will be required to undergo urine and breath testing if they are involved in an accident associated with the operation of a vehicle that results in a fatality regardless of whether or not the vehicle is in revenue service. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident. In addition, post-accident testing will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility or one or more vehicles incurs disabling damage; unless the operator's performance can be completely discounted as a contributing factor to the accident. The accident definition may include some incidents where an individual is injured even though there is no vehicle collision.

- A. As soon as practicable following an accident, as defined in 49 CFR Part 655, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for testing. The supervisor will make the determination using the best information available at the time of the accident.
- B. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than 8 hours after the accident for alcohol, and within 32 hours for drugs. If a drug or alcohol test is not performed within two hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within 8 hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- C. Any covered employee involved in an accident must refrain from alcohol use for at least eight (8) hours following the accident, or until they undergo a post-accident alcohol test.
- D. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- E. Nothing in this section shall be construed to require the delay of necessary medical

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

attention for the injured following an accident, or to prohibit an 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.

- F. In the rare event that the employer is unable to perform an FTA drug and/or alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the transit system may use drug and alcohol post-accident test results administered by state and local law enforcement officials in lieu of the FTA test. The state and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with state and local law.

12. RANDOM TESTING

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

- A. The number of covered employees randomly selected for drug and alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations identified in 49 CFR Part 655.45(b).
- B. Each covered employee in the pool shall have an equal chance of selection each time the selections are made.
- C. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout that calendar year during all days of the week and hours of the day that safety-sensitive functions are performed.
- D. Random drug tests can be conducted at any time a covered employee is on duty. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive function.
- E. Employees are required to proceed immediately to the collection site upon notification to report for a random drug and/or alcohol test.

End of Shift Testing

Random testing may occur anytime a covered employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide **advance**, verifiable notice of scheduled medical or childcare commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of previously scheduled medical or childcare commitments, for the period immediately following an employee's shift, must be provided at least 24 hours before the end of the employee's shift.

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

13. RESULT OF A NEGATIVE DILUTE DRUG TEST

When a negative dilute drug result of 2-5 mg/dl is reported by the Medical Review Officer the covered employee will be required to undergo another test. The MRO will direct the test to be conducted under direct observation. Should the second test result in a negative dilute result, the test will be considered negative and no additional testing will be required unless directed to do so by the MRO.

A drug test with the result of a negative dilute (dilute level > greater than 5 mg/dl) will be re-tested. Collection will be unobserved. The result of the second test will be the test on record. No Additional testing will be conducted unless directed to do so by the MRO.

14. BEHAVIOR THAT CONSTITUTES A TEST REFUSAL

As noted below, refusal to submit to a drug or alcohol test shall be considered a positive test result.

Behavior that Constitutes a Test Refusal	Drug Test	Alcohol Test
1) Failure to appear for a test in the time frame specified by the employer,**	X	X
2) Failure to remain at the testing site until the testing process is complete,**	X	X
3) Failure to provide a urine specimen, saliva, or breath specimen, as applicable.	X	X
4) Failure to permit the observation or monitoring of specimen donation when so required.	X	X
5) Failure to provide sufficient amount of urine or volume of breath without a valid medical explanation for the failure.	X	X
6) Failure to take an additional test when directed by the employer or collector.	X	X
7) Failure to undergo a medical examination when directed to do so by the MRO or employer.	X	X
8) 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, fail to wash hands after being directed to do so by the collector).	X	X
9) 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.	X	
10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.	X	
11) Admit to the collector or MRO that you adulterated or substituted the specimen	X	
12) When the MRO reports a verified adulterated or substituted test result.	X	
13) Failure to sign the certification on Step 2 of the Alcohol Test Form.		X
14) Failure to refrain from the use of alcohol for eight (8) hours following an accident without first having submitted to post-accident drug and alcohol testing.		X
15) Failure to remain readily available for post-accident testing, including notifying a supervisor of their location if they leave the scene of the accident prior to submission to such tests.	X	X

**For pre-employment tests only, failure to appear, aborting the collection before the test commences, or failure to remain at site prior to commencement of test is NOT a test refusal.

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

15. RESULT OF POSITIVE DRUG OR ALCOHOL TEST

Any covered employee who tests positive for the presence of prohibited drugs, tests for alcohol with a BAC at or above .04, or refuses to submit to testing, will be immediately removed from safety sensitive duties, referred for evaluation by a Substance Abuse Professional (SAP) in accordance with Part 40, Subpart O and terminated from employment.

A SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP.

- A. As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result at or above 0.04, or a test refusal, the Designated Employer Representative will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
- B. The employee shall be referred to a SAP for an assessment. In accordance with 49 CFR Part 40, Subpart O, the SAP will evaluate the employee to determine what assistance is necessary to resolve problems associated with prohibited drug use or alcohol misuse.
- C. Refusal to submit to a drug and/or alcohol test shall be considered a positive test result.

Refer to The DISCIPLINARY ACTION section in this transit policy to determine the consequences for policy violations.

16. DISCIPLINARY ACTION

As soon as practical after receiving notice of a verified positive drug test result, a confirmed alcohol test result with a BAC at or above 0.04, or a test refusal, the employer's Designated Employer Representative will contact the covered employee's supervisor to have the employee cease performing any safety-sensitive function. The employee shall be referred to a Substance Abuse Professional (SAP) for an assessment and terminated from employment. The SAP will evaluate each employee to determine what assistance the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

Following an alcohol test result 0.02 or greater, but less than 0.04 – the covered employee is immediately removed from safety-sensitive duties for at least eight (8) hours, unless a retest results in the employee's alcohol concentration of less than 0.02.

ZERO TOLERANCE

Per company policy, any covered employee who tests positive for drugs or alcohol (BAC at 0.04 or above) or refused to test for drugs or alcohol will be referred to a SAP and terminated from employment. No employee who violates this policy will be given a second chance.

PROPER APPLICATION OF THE POLICY

The employer 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.

17. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40, § 40.149 paragraph (a) (5) and paragraph (c) for a positive test or test refusal are not subject to arbitration.

18. INFORMATION DISCLOSURE

Drug and alcohol testing records shall be maintained by the Designated Employer Representative and except as provided below or by law; the results of any drug and/or alcohol test shall not be disclosed without express written consent of the tested covered employee.

- A. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.
- B. Records of a verified positive drug and/or alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor, and Personnel Manager only on a 'need to know' basis.
- C. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- D. Records of an employee's drug and/or alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug or alcohol test. The records will be released to the decision maker in the preceding. The information

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

Revised [6/21/2019]

will only be released with binding stipulation from the decision maker will only make it available to parties in the preceding.

- E. Records will be released to the National Transportation Safety Board during an accident investigation.
- F. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- G. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the employer or the employee.
- H. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of CFR Part 40, as amended, necessary legal steps to contest the issuance of the order will be taken.
- I. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

19. SAFETY-SENSITIVE POSITIONS*

Listed below are the job titles of those that perform safety-sensitive functions:

1. Operational Manager
2. Dispatch Manager
3. Dispatch
4. Drivers
5. Trainer
6. Mechanic, Maintenance Technician
7. Grounds Maintenance

* or any others who operate a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch (anyone who controls the movement of revenue service vehicles), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms and any other transit employee who is required to hold a Commercial Driver's License.

20. POLICY MODIFICATION

The transit system has the right to modify this policy as changes in regulation or law occurs

21. CONTACT INFORMATION

FTA regulations require that a single contact person be identified to answer questions for this policy. Any questions regarding this policy or any other aspect of the substance abuse program should be addressed to the following transit system representatives:

Drug and Alcohol Program Manager (DAPM)

Name:	Kay Nelson
Title:	Administrative Assistant
Address:	249 Poplar Ave. Lowry, MN 56349
Telephone number	800-450-7770, Ext 210
Fax Number	320-283-5066

Designated Employer Representative (DER): (Same as DAPM)

Name:	Kay Nelson
Title:	Administrative Assistant
Address:	249 Poplar Ave. Lowry, MN 56349
Email:	knelson@rainbowriderbus.com
Telephone number:	800-450-7770, Ext 210
Fax Number:	320-283-5066

Secondary DER Contact:

Name:	Jennifer Olson
Title:	Human Resource Manager
Address:	249 Poplar Ave. Lowry, MN 56349
Email:	jolson@rainbowriderbus.com
Telephone number:	800-450-7770, Ext 207
Fax Number:	320-283-5066

MEDICAL REVIEW OFFICER

Name:	Steven Paschall, M.D.
Title:	MRO
Address:	7160 Graham Road Indianapolis, IN 46226
Telephone number:	317-547-8620
Fax number:	317-568-8949

SUBSTANCE ABUSE PROFESSIONAL

Name:	Right Direction Substance Abuse Services, LLC
Title:	Diane Reller
Address:	PO Box 532
	Buffalo MN 55313
Telephone number:	320-248/5721
Email:	rightdirectionsubstanceabuse@gmail.com

CONSORTIUM

Name:	Northstar Medical Service
Title:	Claudia Stein
Address:	416 Nokomis Street
	Alexandria, MN 56308
Telephone number:	320-762-5444
Fax Number:	320-762-5458

DHHS CERTIFIED LABORATORY

Name:	Med-Tox
Title:	
Address:	402 West County RD D
	St. Paul, MN 55112
Telephone number:	800-832-3244
Fax Number:	

EMPLOYEE ASSISTANCE PROGRAM

Name:	Sand Creek
Address:	MCIT
	100 Empire Drive Suite 100
	St. Paul, MN 55103
Telephone Number:	866-547-6516, 800-550-6248
Email:	Info@sandcreekeap.com

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.

All provisions set forth in regular print are included consistent with requirements specifically set forth in 49 CFR Part 655, or Part 40, as amended.
All underline provisions are set forth under the authority of the transit employer.