

PERSONNEL PROCEDURE 224-B
Revised September 1, 2019

SUBJECT: Alcohol and Substance Abuse Testing Policy for Paratransit Services

PURPOSE: To ensure that transportation services are delivered safely, efficiently and effectively by establishing a drug and alcohol-free work environment and that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public.

SCOPE: This procedure outlines Prince George's County Government's alcohol and drug policy and describes procedures for testing, assessing "fitness for duty" and the Federal rules for the drug and alcohol testing for employees with safety-sensitive functions including those employees who must maintain a Commercial Driver License (CDL)

AUTHORITY: Federal Transit Administration (FTA) published 49 CFR Part 40 and Part 655, as amended
U.S. Department of Transportation Rules (DOT) pursuant to the Omnibus Transportation Employee Testing Act of 1991
Drug-Free Workplace Act of 1988
Personnel Law Sections 16-108, 16-189, 16-193, 16-194 and 16-195
Personnel Procedure 224-Substance Abuse Policy

RESPONSIBILITY: Office of Human Resources Management (OHRM)
Department of Public Works and Transportation
Office of Central Services
All FTA Safety-Sensitive Covered Employees

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1. GENERAL STATEMENT

a. Prince George's County Government provides public transit and paratransit services for the citizens and residents of Prince George's County. Part of our mission is to ensure that this service is delivered safely, efficiently and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Prince George's County Government declares that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

b. Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT) has published 49 CFR Part 655, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. The DOT has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

c. Any provisions set forth in this policy that are included under the sole authority of Prince George's County Government are underlined.

2. APPLICABILITY

a. This policy applies to all employees (full or part-time) who are performing any transit-related, safety-sensitive functions. Safety-sensitive functions are:

1) any duties related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service);

2) maintenance of a revenue service vehicle or equipment used in revenue service, where maintenance functions include the repair, overhaul, and rebuilding of engines, vehicles and/or equipment used in revenue service;

3) dispatching or persons controlling the movement of revenue service vehicles;

4) supervisory functions, only if the supervisory personnel perform or may be expected to perform one of the above functions; or

5) any duties related to the operation of a non-revenue vehicle requiring a CDL.

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Note: A list of safety-sensitive positions including one or more of the above-mentioned duties is provided in Attachment A - Safety-Sensitive Positions for Drug and Alcohol Testing.

3. DEFINITIONS

a. The following terms are defined for use in this procedure:

1) Accident - an occurrence associated with the operation of a revenue service vehicle even when not in revenue service, if as a result:

a) An individual dies;

b) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,

c) One (1) 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. For purposes of this definition, disabling damage means 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, but 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 makes them inoperative.

2) 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.

3) Alcohol - the intoxicating agent in beverage alcohol, grain alcohol, ethyl alcohol, or other low molecular weight alcohol contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

4) Alcohol Concentration (BAC) - a measurement of the quantity of alcohol in a person's body expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

5) Canceled Test - a drug test that has been declared invalid by a Medical Review Officer. A cancelled test is neither positive nor negative.

6) Commercial Driver's License (CDL) - a license for any person who operates a commercial motor vehicle which is used to transport passengers or property. This includes but is not limited to full-time, part-time, and limited term CDL holders. In every position requiring a CDL, the CDL holder is either driving or in a state of readiness on-call if required to drive.

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

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position. (Attachment A- Safety-Sensitive Positions for Drug and Alcohol Testing). Any reference in this Procedure to "employee" refers to those individuals that meet this definition of "covered employee".

8) Department of Transportation (DOT) - the department of the Federal government which includes the U.S. Coast Guard, Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Federal Highway Administration, Federal Motor Carrier Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

9) Drug and Alcohol Program Manager (DAPM) – an employee authorized by OHRM to take immediate action to remove employees from safety-sensitive functions and to make required decisions in testing. The DAPM also receives test results and other communications for Prince George's County, consistent with the requirements of 49 CFR Parts 40 and 655, as amended.

10) Dilute Specimen - a specimen with creatinine and specific gravity values that are lower than expected for human urine.

11) 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, but 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 makes them inoperative.

12) Evidential Breath Testing Device (EBT) - an instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the NHTSA conforming products list.

13) 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.

14) Negative Dilute - a drug test result which is negative for the five (5) drugs/drug metabolites but has a specific gravity value lower than expected for human urine.

15) Negative Test Result - a verified measure below the minimum level of concentration of an identified drug or its metabolite specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 Breath Alcohol Concentration (BAC) is a negative test result.

16) Non-negative Test Result - a test result found to be adulterated, substituted, invalid, or positive for drug/drug-metabolites.

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17) Performing (a Safety-Sensitive Function) - any period during which a covered employee is considered to be performing a safety-sensitive function, including being ready to perform, being on-call to perform, actually performing, or directing others to perform such functions.

18) Positive Test Result - a verified presence of an 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.

19) Prohibited Drugs as specified in 49 CFR Part 40, as amended.

20) Return to Duty - tests for alcohol and prohibited drugs that are required as a condition of returning to work in the capacity of a safety-sensitive employee after the recommendation of an approved EAP/SAP treatment provider,

21) Revenue Service Vehicle – all transit vehicles used for passenger transportation service, including all ancillary vehicles used in support of the transit system.

22) Safety-Sensitive Functions -

- a) any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service);
- b) maintenance of a revenue service vehicle or equipment used in revenue service, where maintenance functions include the repair, overhaul, and rebuilding of engines, vehicles and/or equipment used in revenue service;
- c) dispatching or persons controlling the movement of revenue service vehicles;
- d) supervisory functions, only if the supervisory personnel perform or may be expected to perform one of the above functions; or
- e) any duties related to the operation of a non-revenue vehicle requiring a CDL.

23) Substance Abuse Professional (SAP) - licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or 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) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

24) Substitute Specimen - a specimen with creatinine and specific gravity values that are not consistent with normal human urine.

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25) Test Refusal -the following behaviors constitute a refusal to test if the employee:

- a) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by OHRM;
- b) Fails to remain at the testing site until the testing process is complete;
- c) Fails to provide a urine or breath specimen for any required drug or alcohol test;
- d) Fails to, when required to do so, permit the observation or monitoring of the specimen collection;
- e) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- f) Fails or declines to take a second test that OHRM or the collector has directed the employee to take;
- g) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the County's DAPM;
- h) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector);
- i) Fails 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;
- j) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
- k) Admits to the collector or MRO that the test specimen was adulterated or substituted; or
- l) Fails or refuses to sign Step 2 of the Alcohol Testing Form.

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26) Verified Negative Test - a drug test result reviewed by an MRO and determined to have no evidence of prohibited drug or alcohol use above the minimum levels specified in 49 CFR Part 40, as amended.

27) Verified Positive Test - a drug test result reviewed by an MRO and determined to have evidence of prohibited drug or alcohol use above the minimum levels specified in 49 CFR Part 40, as amended.

28) Validity Testing - the evaluation of the collected specimen to determine if it is consistent with normal human urine to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. Validity Testing is the mandatory drug testing methodology under 49 CFR Part 40, as amended.

4. EDUCATION AND TRAINING

a. The Department of Public Works and Transportation (DPW&T) and the Office of Central Services (OCS) shall establish an employee education and training program for all covered employees. The training shall include:

1) A copy of Personnel Procedure 224 - Substance Abuse Policy, Personnel Procedure 224-B - Alcohol and Substance Abuse Testing Requirements for Paratransit Services; information on the County's Employee Assistance Program (EAP) and ready access to the corresponding Federal regulations including 49 CFR Parts 40 and 655, as amended.

Note: The EAP offers confidential assessment, counseling services and referral to other resources for treatment. Employees may obtain EAP services on their own or be referred to the EAP by their supervisors.

2) A minimum of 60 minutes of training for all covered employees on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and the signs and symptoms that may indicate prohibited drug use.

3) For managers and supervisors who are in a position to determine employee fitness for duty, 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable 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

a. Prohibited substances addressed by this policy include:

1) Illegally Used Controlled Substances or Drugs Under the Drug-Free Workplace Act of 1988 - any drug or substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 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. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal substance, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana or the use of hemp-related products which cause drug or drug metabolites to be present in the body above the levels is a violation of this policy.

2) FTA drug testing regulations that all covered employees be tested as referenced in 49 CFR Part 655, as amended. 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.

3) Prescription/Over the Counter (OTC) Drugs: The appropriate use of legally prescribed drugs and nonprescription medications are 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 or a warning from a physician or nurse practitioner to that effect must be reported to a supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions. Any employee at work impaired by, or in the possession of, controlled dangerous substances and/or alcohol without a prescription may be subject to disciplinary action up to and including dismissal. (Personnel Procedure 224 - Substance Abuse Policy)

4) Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol and is present in the body while performing safety-sensitive functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655, as amended, just before, during, or just after the performance of safety-sensitive 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 for duty. The covered employee may be subsequently relieved of his/her on-call responsibilities and subject to discipline.

c. The appointing authority or supervisor shall not permit any covered employee to perform or continue to perform safety-sensitive functions if he/she has actual knowledge or reasonable suspicion of alcohol use in violation of this policy.

d. Each covered employee is prohibited from reporting to work or remaining on duty performing safety-sensitive functions while having an alcohol concentration of greater than 0.02 regardless of when the alcohol was consumed.

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e. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

f. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

g. Prince George's County Government, under its own authority, also prohibits the consumption of alcohol at all times that the employee is on duty, or any time that the employee is at work. (Personnel Procedure 224 - Substance Abuse Policy)

h. Consistent with the Drug-Free Workplace Act of 1988, all Prince George's County Government employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including County premises, County vehicles, while in uniform or while on County business.

7. ARREST NOTIFICATION

An employee arrested off the job for use, sale or possession of a controlled dangerous substance or driving under the influence (DUI) is required to report the arrest to the appointing authority within 48 hours. The appointing authority shall investigate the incident and if necessary, appropriate disciplinary action shall be taken up to and including dismissal. Failure to comply with this provision shall result in disciplinary action as defined in Personnel Law Section 16-193 -- 16-195.

8. TESTING REQUIREMENTS

a. An analytical drug and alcohol test shall be conducted as required by 49 CFR Part 40, as amended. All covered employees shall be subject to testing prior to employment, reasonable suspicion, post-accident, and as part of the random pool. All covered employees who have tested positive for drugs or alcohol on a random, reasonable suspicion or post-accident test shall be disciplined up to and including dismissal from County service.

b. A drug test can be performed any time a covered employee is on duty. The appointing authority may authorize an alcohol test to be performed any time a covered employee is on duty.

c. All covered employees shall be subject to drug and alcohol testing as a condition of ongoing employment with Prince George's County Government in accordance with 49 CFR Part 655, as amended. Any covered employee who refuses to comply with a request for testing shall be removed from duty and subject to disciplinary action. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution shall be required to undergo an observed collection. Verification of the above listed actions shall be considered a test refusal and shall result in the employee's removal from duty and subject to disciplinary action as set forth in Section 18 of this Personnel Procedure.

9. DRUG TESTING PROCEDURES

a. 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 Service (HHS).

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

c. The drugs that shall be tested are referenced in 49 CFR Part 40, as amended. After the identity of the donor is checked using picture identification, a urine specimen shall be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen shall be accompanied by a Federal DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis shall be conducted at an HHS certified laboratory. An initial drug screen and validity test shall be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test shall be performed. The test shall be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

d. Specimen validity testing shall 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.

e. The test results from the HHS certified laboratory shall be reported to a Medical Review Officer (MRO). An MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO shall review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO shall attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO shall subsequently review the employee's medical history/medical records, as appropriate, to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test shall be verified 'positive' or 'refusal to test' and reported to the County's DAPM. If a legitimate explanation is found, the MRO shall report the test result as 'negative' to the County's DAPM and no further action shall be taken. If the test is invalid without a medical explanation, a retest shall be conducted under direct observation.

f. Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same

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time as the primary sample. The method of collecting, storing, and testing the split sample shall be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours shall only be accepted at the discretion of the MRO if the delay was due to verifiable facts that were beyond the control of the employee. The County's DAPM shall ensure that the cost for the split specimen is covered by the appropriate County department or agency in order for a timely analysis of the sample; however, the County may seek reimbursement for the split sample test from the employee.

g. If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO shall declare the original test to be 'canceled' and shall direct the County's DAPM and the collection site to retest the employee under direct observation.

h. The split specimen shall be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split shall be discarded. If the primary is positive, the split shall be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, it shall be retained in frozen storage for one (1) year and the split specimen shall also be retained for one (1) year.

10. DIRECT OBSERVATION

a. Observed collections are required in the following circumstances:

- 1) All return-to-duty tests;
- 2) All follow-up tests;
- 3) Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90-100 degrees Fahrenheit;
- 4) Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- 5) Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- 6) Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was negative dilute with creatinine between 2 -5 md/dl;
- 7) 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; and/or,

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8) 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.

b. The employee who is being observed shall 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.

c. The County's DAPM shall direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.

11. ALCOHOL TESTING PROCEDURE

a. Tests for breath alcohol concentration shall be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing (EBT) device 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 NHSTA.

1) If the initial test indicates an alcohol concentration of 0.02 or greater, a second test shall be performed to confirm the results of the initial test.

2) The confirmatory test shall be conducted at least fifteen (15) minutes after the completion of the initial test. The confirmatory test shall be performed using a NHSTA approved EBT device operated by a trained BAT.

3) The EBT shall identify each test by a unique sequential identification number. This number, time and unit identifier shall be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, shall be used to document the test, the subsequent results, and to attribute the test to the correct employee.

4) The test shall be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure shall be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

5) An employee who has a confirmed alcohol concentration of 0.04 or greater shall be considered a positive alcohol test and in violation of this policy. The employee shall be immediately removed from duty. The consequence of a positive alcohol test is subject to disciplinary action up to and including dismissal from County service.

6) An employee who has a confirmed alcohol concentration of .02 but less than .04 may be considered positive if additional evidence or infractions are present that indicate impairment. The employee shall be immediately removed from duty for at least eight (8) hours or for the duration of the work day, whichever is longer, and shall be subject to disciplinary action up to and including dismissal from County service.

7) An alcohol concentration of less than 0.02 shall be considered a negative test.

12. PRE-EMPLOYMENT TESTING/TRANSFER TO SAFETY-SENSITIVE POSITION

a. Pre-Employment Applicant Testing

1) All applicants for covered safety-sensitive positions shall be required to take a urine drug test and breath alcohol test.

2) An applicant with a negative dilute test result shall be required to retest. Should this second test result in a negative dilute, the test will be considered negative and no additional testing will be required unless directed to do so by the MRO.

3) Applicants are required to report previous DOT-covered drug and alcohol test results. Failure to do so shall result in the employment offer being rescinded.

4) All offers of employment for covered positions shall be extended as conditional upon the applicant passing a drug and alcohol test. An applicant shall not be hired into a covered position unless the applicant takes a drug and alcohol test with verified negative results.

5) The conditional offer of employment shall be rescinded for any applicant who fails a pre-employment drug or alcohol test. Failure of a pre-employment drug and/or alcohol test shall disqualify an applicant for employment for a period of at least one (1) year. Evidence of the absence of drug/alcohol dependency from an SAP that meets with 49 CFR Part 40, as amended, and a verified negative pre-employment drug and alcohol test shall be required prior to further consideration for employment. The cost for the assessment and any subsequent treatment shall be the sole responsibility of the applicant.

6) If a pre-employment/pre-transfer test is canceled, the appointing authority shall require the applicant to take and pass another pre-employment drug test.

b. Non-Covered Employee Transferring to a Safety-Sensitive Position

1) All non-covered employees shall be required to take a drug test and alcohol test prior to the performance of a safety-sensitive function.

2) Non-covered employees shall not be placed, transferred or promoted into a covered position until the employee takes a drug and alcohol test with verified negative results.

3) An employee who fails a pre-employment drug or alcohol test shall be subject to disciplinary action up to and including dismissal. Evidence of the absence of drug/alcohol dependency from an SAP that meets with 49 CFR Part 40, Subpart O, as amended,

and negative pre-employment drug and alcohol tests shall be required prior to further consideration for continued employment.

4) If a pre-employment/pre-transfer test is cancelled, the appointing authority shall require the applicant to take and pass another pre-employment drug and alcohol test.

5) In instances where a covered employee is on extended leave for a period of 90 days or more regardless of reason, the employee shall be removed from safety-sensitive functions and the County's FTA random pool. The employee shall be required to take a pre-employment drug and alcohol test, as set forth in 49 CFR Part 655, as amended and have verified negative test results prior to the continuation of safety-sensitive functions.

13. REASONABLE SUSPICION TESTING

a. All covered employees shall be subject to reasonable suspicion drug and alcohol testing when there are reasons to believe that drug or alcohol use is impacting job performance and safety.

b. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

c. Reasonable suspicion referrals must be made by a supervisor who has received training 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 possible prohibited substance or alcohol use.

d. A reasonable suspicion drug or alcohol test can be conducted any time the covered employee is on duty. Alcohol testing is permissible under DOT authority just before, during or just after performance of safety-sensitive functions. Further alcohol testing can be conducted any time the employee is on duty.

e. The appointing authority or designee shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others in a situation which might endanger the physical safety of those present.

f. If a required alcohol test is not administered within two (2) hours following the determination under paragraph b. of this section, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test required by FTA regulations (49 CFR Part 655, as amended) is not administered within eight (8) hours, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

g. An employee who refuses an instruction to submit to a drug and/or alcohol test shall not be permitted to finish his or her shift and shall be **immediately** removed from performing any safety-sensitive function, the employee's leave status shall be coded as

administrative leave, and the appointing authority shall initiate a dismissal action against the employee in accordance with Personnel Law.

h. The Reasonable Suspicion Checklist (Attachment B) shall be completed. A detailed, concise and objective 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 making the observation prior to the release of the test results. This written record shall be submitted to the County's DAPM and shall be attached to the forms reporting the test results.

14. POST-ACCIDENT TESTING

a. All covered employees shall be required to undergo drug and alcohol testing if they are involved in an accident with a County 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 covered employee whose performance cannot be completely discounted as a contributing factor to the accident.

b. Unless the operator's performance can be completely discounted as a contributing factor to the accident, a post-accident test shall be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage. Disabling damage is defined as "damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner after simple repair, or damage to any vehicle that could have been operated but which would have further damaged the vehicle if so operated."

c. As soon as practicable following an accident, as defined in this policy, the supervisor investigating the accident shall notify the transit employee operating the County vehicle and all other covered employees whose performance could have contributed to the accident of the need for the post accident tests.

1) The supervisor shall make the determination using the best information available at the time of the decision.

2) The supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable--no longer than eight (8) hours after the accident for alcohol, and within 32 hours for drugs.

3) If an alcohol test is not performed within two (2) hours of the accident, the supervisor shall document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

d. Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

e. An employee, who is subject to post-accident testing, who fails to remain readily available for such testing, including, but not limited to, notifying a supervisor of his or her

location, or if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

f. Nothing in this section shall be construed to require the delay of necessary medical 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.

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

15. RANDOM TESTING

a. The County's DAPM is responsible for conducting a random drug selection and random alcohol selection from the pool of employees in safety-sensitive positions. The DOT determines the minimum annual percentage rate for drug and alcohol testing.

b. The County's DAPM shall randomly select, by a scientifically valid method, a sufficient number of covered employees for testing during the calendar year to equal an annual rate not less than the minimum annual percentage.

c. Covered transit employees subject to the FTA regulations shall be included in one (1) random pool maintained separately.

d. Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees shall remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of the appointing authority or designee in the selection and notification of the individuals who are to be tested.

e. The appointing authority or designee shall ensure that random drug and alcohol tests conducted are unannounced and unpredictable. Random testing must be conducted at all times of the workday when safety-sensitive functions are performed.

f. The appointing authority or designee shall require that each covered employee who is notified of selection for random drug or alcohol testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of notification, the appointing authority or designee shall ensure that the employee ceases to perform the safety-sensitive function and proceed to the test site immediately. There is no operational or managerial discretion once the agency is notified by OHRM.

g. Random drug and alcohol tests can be conducted at any time the employee is on duty. Alcohol testing is permissible just before, during or just after performance of safety-sensitive functions. Further, alcohol testing can be conducted any time the employee is on duty.

16. RETURN-TO-DUTY TESTING

a. If disciplinary action does not result in termination, the appointing authority or designee will offer the covered employee a last chance agreement that addresses the employee's problem(s) with alcohol and/or drugs and sets forth the expectations and standards that the employee must meet. The last chance agreement will also set forth the consequences if the expectations and standards are not met.

b. Covered employees are subject to alcohol and drug return-to-duty testing once a written, return-to-duty release is received from the SAP, which allows the employee to return to DOT safety sensitive functions.

c. Following the initial assessment, the SAP shall recommend a course of rehabilitation unique to the individual. The SAP shall recommend a return-to-duty test only when the employee has successfully completed the treatment requirements.

d. The agency must comply with the SAP return-to-duty test recommendation if the employee will be retaining employment with the County. When an employee is sent for a return-to-duty drug and alcohol test, the test must be conducted under direct observation.

e. The employee is required to submit to a drug and alcohol test (under direct observation) before returning to safety-sensitive functions. The employee will also be subject to unannounced, directly observed, follow-up testing as described in the next section of this policy (Follow-Up Testing).

17. FOLLOW-UP TESTING

a. The appointing authority or designee shall direct follow-up testing of each employee who returns to duty after violating this policy or DOT drug and alcohol rules, as specified in 49 CFR Part 40, as amended.

b. The appointing authority or designee shall inform the County's DAPM of the ordered follow up test(s). Affected employees shall be required to undergo frequent, unannounced drug and alcohol testing following their return-to-duty. The follow-up testing shall be performed for a period of one (1) to five (5) years with a minimum of six (6) tests to be performed the first year.

c. The frequency and duration of the follow-up tests, beyond the minimum testing requirements, shall be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. All follow-up tests will be directly observed at the testing facility. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty program testing.

18. RESULTS OF DRUG AND/OR ALCOHOL TESTING

a. Any covered employee that has a verified positive drug or alcohol test shall be

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immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and referred to an SAP for assessment. The employee will be subject to disciplinary action up to and including dismissal from County service.

b. A positive drug and/or alcohol test or other prohibited acts as described herein shall also result in disciplinary action as specified:

1) Immediately after receiving notice of a verified positive drug test result, a written confirmed alcohol test, or a test refusal, the County's DAPM shall contact the employee's appointing authority or designee to have the employee cease performing any safety-sensitive function.

2) If a required alcohol test is not administered within two (2) hours after an employee is told to report for testing, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test required by FTA regulations (49 CFR Part 655, as amended) is not administered within eight (8) hours, the employer shall cease attempts to administer an alcohol test and shall state in the record the reason for not administering the test.

3) Refusal to submit to a drug/alcohol test, if directed to do so by the employee's appointing authority or designee, shall result in the appointing authority initiating a dismissal action against the employee in accordance with the provisions of Personnel Law Section 16-201(a). A test refusal includes the following circumstances:

a) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by OHRM;

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

c) Fails to provide a urine or breath specimen for any required drug or alcohol test;

d) Fails to permit the observation or monitoring of the specimen collection when required to do so;

e) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined through a required medical evaluation, that there was no adequate medical explanation for the failure;

f) Fails or declines to take a second test that OHRM or the collector has directed the employee to take;

g) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the County's DAPM;

h) Fails to cooperate with any part of the testing process (e.g., refuses to

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empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector);

i) Fails 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;

j) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;

k) Admits to the collector or MRO that the test specimen was adulterated or substituted; or

l) Fails or refuses to sign Step 2 of the Alcohol Testing Form.

4) A verified positive post-accident, return-to-duty, random, follow-up or reasonable suspicion drug and/or alcohol test greater than 0.04 BAC shall be subject to disciplinary action up to and including dismissal from County service.

5) An alcohol test result of 0.02 or greater but less than 0.04 BAC shall result in the removal of the employee from duty for eight (8) hours or the remainder of the work day whichever is longer. The employee may not be allowed to return to safety-sensitive functions for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC.

c. Any covered employee that has a verified negative dilute test result shall be required to retest. Should this second test result in a negative dilute, the test will be considered negative and no additional testing will be required unless directed to do so by the MRO.

19. PROPER APPLICATION OF THE POLICY

Prince George's County Government is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, appointing authorities, managers and supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any individual who knowingly disregards the requirements of this policy, or who is found to have deliberately misused this policy in regard to employees, shall be subject to disciplinary action up to and including dismissal.

20. CONFIDENTIALITY AND RELEASE OF INFORMATION

a. Drug and alcohol testing records shall be maintained by the County's OHRM and, except as provided below or by law, the results of any drug and alcohol test shall not be disclosed without express written consent of the tested employee.

b. 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

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equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP treatment referrals and follow-up testing plans.

c. Records of verified positive drug and alcohol test results shall be released to the County's DAPM, employee's appointing authority and to OHRM staff on a need to know basis.

d. Records shall be released to a subsequent employer only upon receipt of a written request and a signed authorization from the employee.

e. Records of an employee's drug/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/alcohol test.

f. Records shall be released to the National Transportation Safety Board during an accident investigation.

g. Records shall be released to the DOT or any DOT agency with regulatory authority over the County or any of its employees.

h. Records shall be released, if requested, by a Federal, State or local safety agency with regulatory authority over Prince George's County Government or any of its employees.

i. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of 49 CFR Part 40, as amended, necessary legal steps to contest the issuance of the order shall be taken.

j. As otherwise may be required by law or a court of competent jurisdiction.

21. RECORD RETENTION

a. Employee records are maintained in a location with controlled access.

b. OHRM shall be responsible for maintaining the following records for the following periods of time:

1) Records maintained for five (5) years:

a) Alcohol test results indicating an alcohol concentration of 0.02 or greater;

b) Verified positive drug test results;

c) Documentation of refusals to take required alcohol and/or drug tests (including substituted or adulterated drug test results);

d) SAP reports;

e) All follow-up tests and schedules for follow-up tests; and

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f) Copies of the DOT Drug and Alcohol Testing Management Information System (MIS) Data collection forms.

2) Records maintained for three (3) years:

a) Information obtained from previous employers on DOT regulated drug and alcohol testing results of candidates for safety-sensitive positions as described in 49 CFR Part 4, as amended.

3) Records maintained for two (2) years:

a) The County's testing facility must keep records of the inspection, maintenance, and calibration of EST's.

4) Records maintained for one (1) year:

a) Negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02.

c. The Department of Public Works and Transportation and the Office of Central Services shall be responsible for maintaining the following records:

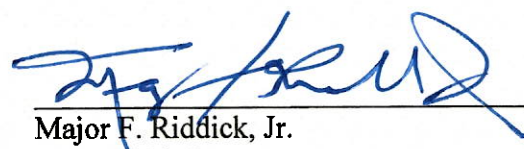
1) Employee Training Records are maintained at the Consolidated Transit Operations and Vehicle Maintenance Facility, Transit Operations Section during the period of time that an employee is active in a safety-sensitive position.

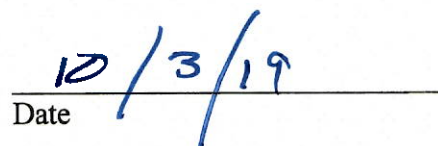
2) DOT Drug and Alcohol Testing MIS Data collection forms.

22. INFORMATIONAL CONTACT

Drug and Alcohol Program Manager
Office of Human Resources Management
Employee Services and Labor Relations Division
1400 McCormick Drive, Suite 125
Largo, Maryland 20774 (301) 883-6396

EFFECTIVE DATE: This procedure supersedes Personnel Procedure 224-B dated September 11, 2013 and shall become effective on the date of issuance.


Major F. Riddick, Jr.
Acting Chief Administrative Officer


Date

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ATTACHMENTS:

Attachment A -- Safety-Sensitive Positions for Drug and Alcohol Testing
Attachment B -- Reasonable Suspicion Checklist

LAW AND PROCEDURES REFERENCED:

Personnel Law Section 189
Personnel Law Section 193, 194 and 195
Administrative Procedure 224 - Substance Abuse Policy
Personnel Procedure 223 - Employee Assistance Program
Administrative Procedure 284 - Administration of Employee Leave

**Safety-Sensitive Positions
For
Drug and Alcohol Testing**

This policy applies to all employees (full or part-time) who are performing any transit-related business, which are considered as safety-sensitive. Safety-sensitive functions are:

- any duties related to the safe operation of mass 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, where maintenance functions include the repair, overhaul, and rebuilding of engines, vehicles and/or equipment used in revenue service;
- dispatching or persons controlling the movement of revenue service vehicles;
- supervisory functions, only if the supervisory personnel perform or may be expected to perform one of the above functions; or
- any duties related to the operation of a non-revenue vehicle requiring a CDL.

Below is a list of work classes* within the Department of Public Works and Transportation and the Office of Central Services that perform transit safety-sensitive functions.

Department of Public Works and Transportation

Administrative Specialist within Paratransit Section
Community Developer within Paratransit Section
Transit Service Coordinator
Transit Operator
Dispatcher
Engineering Technicians within Paratransit Section

Office of Central Services

Heavy Equipment Mechanic
Garage Supervisor
Assistant Garage Supervisor

*Classes of work are subject to change.

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ATTACHMENT B

Reasonable Suspicion Checklist

Employee Name: _____ Date: _____

Time: _____

CHECK ALL WHICH APPLY -- FILL OUT AS COMPLETELY AS POSSIBLE

Breath smells like alcohol: _____

Breath/hair/hands/clothes smell like marijuana: _____

Body odors masked by gum/mints/cologne, etc.: _____

Eyes bloodshot: _____ Eyes glassy: _____ Eyelids Swollen: _____

Eyes watery: _____ Pupils Dilated: _____ Pinpoint pupils: _____

Face flushed: _____ Face pale: _____ Unusual sweating: _____

Speech slurred: _____ Incoherent: _____ Rambling: _____

Won't stop talking: _____ Won't talk: _____

Voice unusually loud/soft: _____

Stumbles, staggers or falls when walking: _____

Sways, sags or leans on support when standing: _____

Movements jerky/uncoordinated: _____

Acts sleepy: _____

Acts hyperactive/moves very slowly: _____

Sudden, marked mood swings: _____

Sudden, marked changes in activity level: _____

Unusually quarrelsome or irritable: _____

Doesn't seem to care about anything: _____

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Describe any recent changes in attendance:

Describe any recent changes in quantity and quality of work:

Describe any suspicious accidents/errors:

Describe any other reasons why employee has been selected for testing:

What is employee's explanation of behaviors/appearance?
