



Overtown Transit Village  
701 NW 1st Court  
Miami, FL 33136  
[www.miamidade.gov/transit](http://www.miamidade.gov/transit)

# Drug and Alcohol Testing Policy

In accordance with  
U.S. Department of Transportation  
Federal Transit Administration  
Regulations (*49 CFR Parts 40 and 655 as amended*)

**Revised, January 2024**

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# Memorandum



The Florida Department of Transportation (FDOT) did a triennial audit in March 2021 and required DTPW to include language in the DTPW Drug and Alcohol Policy clarifying that the self-reporting of substances that could adversely affect a covered employee includes over-the-counter medications. The policy has been revised to reflect the required update.

FTA regulations require that the DTPW Drug and Alcohol Testing Policy be adopted by the governing board as an official policy. On December 16, 1999, the Board of County Commissioners, through Resolution #R-1374-99, approved the current policy and authorized the County Manager to approve subsequent updates to the policy as needed. Since the County Manager's authority has been transferred to the Mayor under the County Charter, the Mayor is authorized to approve this subsequent update.

The revised DTPW Drug and Alcohol Testing Policy 2024 is attached for your review. The policy has been reviewed by DTPW Management and by the County Attorney's Office. Once your approval is received, the policy will be distributed to all DTPW employees that occupy safety-sensitive positions, contractors, and representatives of applicable County unions.

**Approved:**

A handwritten signature in blue ink that reads "Daniella Levine Cava".

\_\_\_\_\_  
Daniella Levine Cava, Mayor

6/25/24

\_\_\_\_\_  
Date

**Disapproved:**

\_\_\_\_\_  
Daniella Levine Cava, Mayor

\_\_\_\_\_  
Date

C: Lydia M. Knight  
Chief, DTPW Human Resources

Attachment

## Department of Transportation and Public Works (DTPW) DRUG and ALCOHOL TESTING POLICY STATEMENT

It is the policy of the Department of Transportation and Public Works (DTPW) to promote safety of mass transit operations by prohibiting the use of certain drugs and the misuse of alcohol by employees who perform safety-sensitive functions. DTPW employees are our most valuable resource and it is our goal to provide a healthy, satisfying work environment that promotes personal opportunities for growth. As one of the steps necessary to meet this goal, it is our policy to:

- Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner;
- Create a workplace environment free from the adverse effects of drug and alcohol substance abuse and misuse;
- Prohibit the unlawful manufacture, distribution, dispensing, attempt to purchase, possession, trafficking, driving under the influence (DUI) or use of controlled substances; and
- Encourage employees to seek professional assistance anytime personal problems, including alcohol or drug use and misuse, adversely affect their ability to perform their assigned duties.

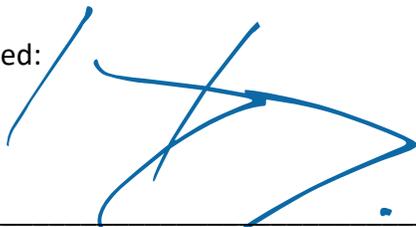
In accordance with the Federal Transit Administration (FTA) regulations entitled Prevention of Prohibited Drug Use in Transit Operations (49 CFR Part 655), and to meet the goals set forth above, DTPW has established:

- An alcohol misuse prevention program in which safety-sensitive employees are tested for the misuse of alcohol and supervisors are authorized to make reasonable suspicion testing determinations and are trained to recognize the signs and symptoms of alcohol misuse; and
- An anti-drug program to detect the use of prohibited drugs by urine testing and to deter the use of those drugs by educating and training safety-sensitive employees about the safety and health ramifications of drug use and abuse.

Implementation details are contained in this Department of Transportation and Public Works Drug and are in conformance with 49 CFR Parts 40 and 655 as amended or future amendments thereto.

Alcohol Testing Policy and are in conformance with 49 CFR Parts 40 and 655 as amended, or future amendments thereto.

Approved:



\_\_\_\_\_  
Eulois Cleckley, Director and CEO  
DTPW Director

1/31/24

\_\_\_\_\_  
Date

January 4, 2024

## GENERAL

### ***Promulgation of Policy***

The Department of Transportation and Public Works (DTPW) performs a vital service to the public as stated in its mission statement, "To meet the needs of the public for the highest quality transit service: safe, reliable, efficient and courteous." To ensure that this service is delivered safely for the riding public and all others, each DTPW employee and contractor has the responsibility to perform their duty in a safe and conscientious manner. This policy establishes a drug and alcohol-free work environment to ensure that DTPW employees and its contractors remain free from the effects of drugs and alcohol in order to guarantee the health and safety of the riding public and all others.

This policy complies with the Federal Transit Administration's (FTA) Drug and Alcohol Testing Regulations (49 CFR Parts 40 and 655) and the Drug Free Workplace Act of 1988. This policy is provided to help employees and contractors better understand the requirements of the drug and alcohol testing procedures and regulations.

A copy of the DTPW Drug and Alcohol Testing Policy shall be provided to all covered employees, representatives of employer organizations, and contractors as required by Part 655.

Provisions required by law are printed in normal typeface. *Provisions promulgated under local authority are printed in Italics and are promulgated pursuant to management rights and are subject to change in management's sole discretion.*

*Copies of the employer's policy can be obtained at the DTPW Human Resources Division, 701 NW 1 Court, Suite 1300, Miami, FL 33136, (786) 469-5229, or on TRANSITNET.*

*Copies of all required drug and alcohol testing forms are located in the DTPW Human Resources division site on TRANSITNET.*

Questions regarding any provisions of this policy should be directed to the DTPW Human Resources Division. (See Appendix A for contact name and phone numbers.)

### ***Applicability***

*The federally required provisions of this policy apply to all employees who perform a safety-sensitive function for DTPW. (See also DTPW Safety-Sensitive Classifications in Appendix B.) This policy also applies to companies and their employees under contract that perform a safety-sensitive function for DTPW. All contractors shall be issued a copy of this policy at the time their contract is approved.*

*Contractors performing a safety-sensitive function are required to have a drug and alcohol policy that meets the requirements of the FTA's Drug and Alcohol Testing Regulations (49 CFR Parts 40 and 655) and the Drug Free Workplace Act of 1988, and must provide a copy to their employees. Contractors must submit a summary of their drug and alcohol testing data for each quarter to DTPW for audit, and for the calendar year as required by FTA regulation. Failure of a contractor to follow the FTA's Drug and Alcohol Testing Regulations can jeopardize DTPW federal funding and can result in the contract being canceled. Each contractor is responsible for ensuring that any agency or person hired (collection agency, Medical Review Officer (MRO), Substance Abuse Professional (SAP), etc.) to perform a drug or alcohol testing function is performing that function as required in 49 CFR Parts 40 and 655.*

*This policy applies to all DTPW safety-sensitive employees and contractors when on transit property or when performing any transit related business as specified in these provisions with the following clarification that is consistent with the long-standing accepted past practice that the disciplinary action provisions of this policy do not apply to part-time safety sensitive employees as more fully described in the section of this policy entitled Disciplinary Policy.*

*This policy also applies to municipalities that will have safety-sensitive employees and/or contractors as a result of the delivery of their American Recovery and Reinvestment Act (ARRA) projects.*

*Covered employees are subject to drug and alcohol testing under this policy when involved in DTPW business while not on DTPW property.*

*This policy also applies to off-site lunch periods or breaks when an employee is scheduled to return to work.*

### **Application of the Policy and Employee Responsibility**

*DTPW is dedicated to assuring the fair and equitable application of this substance abuse prevention policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in a consistent, unbiased, and impartial manner.*

*All covered employees have the responsibility of being knowledgeable regarding the requirements of the employer's policies and procedures and to fully comply with the provisions thereof.*

### **Education and Training Programs**

DTPW believes that education and training of all employees in the effects and treatment of substance abuse will contribute to a safer and more efficient workplace for everyone. Therefore, educating and informing employees about the dangers of drug abuse or alcohol misuse and the possible penalties for violation of the DTPW Drug and Alcohol Testing Policy are essential components of our program. DTPW has established an employee education and training program for all covered employees, including:

#### **Education**

The education components shall include display and distribution to every covered employee of informational material and community service hot-line telephone numbers for employee assistance, if available.

#### **Training**

Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations under this policy shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use, and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

## PROHIBITED DRUG AND ALCOHOL CONDUCT

### ***Manufacturing, Trafficking, Possession and Use of Controlled Substances***

*Consistent with existing County policy, State and Federal statutes, the illegal use, sale, attempt to purchase or possession of narcotics, drugs or controlled substances by county employees on or off duty is cause for administrative action up to and including termination. This is in accordance with Miami-Dade County Personnel Rules, Chapter VIII, Section 7, Item D, "The employee has violated any lawful or official regulation or order...." And Item I, "That the employee has been guilty of conduct unbecoming an employee of the County whether on or off duty..."*

*Employees who are under the influence of alcohol, or who possess or consume alcohol on the job, have the potential for interfering with their own, as well as their co-workers', safe and efficient job performance. Such conditions will be proper cause for administrative action up to and including dismissal. This is consistent with Dade County Personnel Rules, Chapter VIII, Section 7, Item N, "That the employee has been intoxicated on duty: or if off duty his conduct brings reproach upon the County service," and Item D, "That the employee has violated any lawful or official regulation or order..."*

*For more information about the County's policy on drug use or abuse, see: Metropolitan Dade County Alcohol and Drug Abuse Workplace Policy; Administrative Order 7-27, Alcohol and Drug Screening For Pre-Employment and County Provided Physical Examinations, dated May 5, 1987; and Administrative Order 7-29, Alcohol and Drug Screening for County Employees Based Upon Reasonable Suspicion, dated December 15, 1987.*

*The Drug-Free Workplace Act of 1988 requires that DTPW notifies all employees that the unlawful manufacture, distribution, trafficking, sales, dispensing, possession and/or use of a controlled substance is prohibited on DTPW property, while using DTPW equipment or while on DTPW business. The act also requires that DTPW provide an ongoing drug-free awareness program to inform employees about: the dangers of drug and alcohol abuse in the workplace; DTPW's policy of maintaining a drug-free workplace; services available through the Miami-Dade County Employee Support Services, (305) 375-3292, to assist with problems related to drug and alcohol use; the penalties that will be imposed upon employees for violation of this policy.*

### Covered employees

Employees performing any of the following functions are considered safety-sensitive and covered by all the provisions of this policy with the clarification set forth in the provisions on Disciplinary Policy regarding part-time employees:

- Operating a revenue vehicle, in or out of revenue service.
- Operating a non-revenue vehicle that requires a possession of a CDL license.
- Controlling dispatch or movement of a revenue service vehicle.
- Maintenance of a revenue service vehicle or equipment used in revenue service.
- Carrying a firearm for security purposes.
- Covered volunteer if: 1) The volunteer is required to hold a CDL, or 2) The volunteer receives remuneration in excess of their actual expenses while engaged in the volunteer activity.

Contractors performing safety-sensitive functions at any transit facility or on any vehicle are also covered by the provisions of this policy. (See Appendix B for DTPW safety-sensitive classifications.)

## **PROHIBITED ALCOHOL USE**

### ***Alcohol Testing***

Covered employees must submit to alcohol tests in accordance with 49 CFR Part 655 as amended.

All DTPW safety-sensitive employees are subject to alcohol testing prior to, during, and immediately after performing their job duties. DTPW shall test for alcohol in the following circumstances:

- Pre-employment
- Post-accident
- Reasonable suspicion
- Random
- Return-to-duty
- Follow-up

Confirmed alcohol breath concentrations of 0.04 or greater are considered positive. A covered employee with a confirmed positive alcohol test will be relieved from duty immediately. A covered employee that refuses an alcohol test will be removed from duty immediately. *An employee that has a positive alcohol test will not be allowed to drive a County vehicle or personal vehicle. DTPW management will make arrangements for the employee to be sent home.* (See Employer Action on Positive Test Result and Refusal to Test.)

*The use of products containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body before performing or while performing safety-sensitive functions is prohibited.*

### ***On-Duty Use***

Covered employees are prohibited from using alcohol while performing safety-sensitive functions. No employer having actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.

### ***Pre-Duty Use***

Covered employees are prohibited from using alcohol within four (4) hours of reporting for duty. No employer having actual knowledge that a covered employee has used alcohol within 4 hours of performing a safety-sensitive function shall permit the employee to perform or continue to perform safety-sensitive functions.

Covered employees who are on-call, or called to return to work overtime, are prohibited from consuming alcohol during their specified on-call hours. Employees who have consumed alcohol and are asked to come back to work should inform the caller and decline the assignment. Employees who do not accept an assignment will not be adversely affected. Employees who accept the assignment and present themselves ready to work will be subject to alcohol testing.

***Use Following an Accident***

Covered employees required to take a post-accident alcohol test are prohibited from using alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.

***Other Alcohol-Related Conduct***

Covered employees whose alcohol test results are 0.02 or greater but less than 0.04 will be removed immediately from safety-sensitive functions. *An employee with an alcohol test result of .02 or greater but less than .04 will not be allowed to drive a County Vehicle.*

*Covered employees whose alcohol test results are 0.02 or greater but less than 0.04 will be relieved from duty and placed on unpaid leave until the start of the employee's next regularly scheduled duty period, but not less than 8 hours following the administration of the alcohol test. A confirmed result of 0.02 or greater but less than 0.04 may lead to disciplinary action up to and including termination. Furthermore, excessive confirmed results of 0.02 or greater but less than 0.04 shall result in a dismissal recommendation.*

**PROHIBITED DRUG USE*****Prescribed Drugs and Non- Prescription (Over-the-Counter)***

*The appropriate use of legally prescribed drugs and non-prescription medication (over-the-counter) is not prohibited. However, the use of any substance that carries a warning label that indicates that mental functions, motor skills, judgment may be adversely affected, affects alertness, causes drowsiness, dizziness, sleepiness, must be reported to supervisory personnel and medical advice should be sought as appropriate, before performing work-related duties.*

*A legally prescribed drug means that the individual has obtained a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. The prescription or written authorization must include the covered employee's name, the name of the substance, quantity/amount to be taken, and the period of authorization.*

*The misuse or abuse of legal drugs that have the potential to affect mental functions, motor skills, or judgment is prohibited. Failure to comply may lead to disciplinary action up to and including dismissal.*

***Prohibited Drugs***

Covered employees must submit to drug tests administered in accordance with 49 CFR Part 655 as amended.

DTPW is required to screen covered employees for prohibited drugs and drug metabolites in the following circumstances: pre-employment, post-accident, reasonable suspicion, random, return-to-duty, and follow-up.

Covered employees shall be tested for the following listed drugs and metabolites\*:

- Marijuana (Delta9 – THCA\*)
- Cocaine (BZE\*)
- **Opioids** (codeine, hydrocodone, oxycodone, hydromorphone, oxymorphone, morphine drug or metabolite, 6-AM-heroin\*)
- Amphetamines (MDA, MDMA, methamphetamine, amphetamine)
- Phencyclidine (PCP)

The use and consumption of the five illegal drugs listed above are **prohibited at all times** and employees can be tested for drugs anytime while on duty.

However, the appropriate use of legally prescribed drugs and non-prescription medications is not prohibited (Note: This never applies to PCP or THC). If the Medical Review Officer (MRO) determines that an employee has a legitimate medical reason for the presence of a prohibited substance in their specimen, the MRO will report the test result to the employer as negative. However, the MRO may also medically disqualify an employee from performing safety-sensitive duties because of medication use. For further information, refer to 49 CFR 40.135(d).

A covered employee that has a confirmed positive drug test result, after review by the MRO, on a required test will be relieved from duty immediately. A covered employee that refuses a drug test will be removed from duty immediately. (See Employer Action on Positive Test Result and Refusal to Test.)

If a drug test is canceled on a pre-employment, return-to-duty, or follow-up test, the employee or applicant must re-take the drug test and produce a negative drug test result.

An immediate observed collection will occur when an employee produces a sample out of the temperature range, shows evidence of tampering/adulterant, and will be required on all return-to-duty and follow up tests.

(See Prohibited Drug and Alcohol Testing Procedures section for new collection procedures.)

*DTPW shall require an immediate retest upon being notified by the Medical Review Officer (MRO) that an employee's test result is negative dilute. This policy applies to all required tests. (See required tests.)*

## **REQUIRED TESTS**

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

#### Requires:

- DOT drug and alcohol tests.
- Request For Drug and Alcohol Information From Previous Employer Form.

All applicants must produce a negative drug test and alcohol test result prior to being hired. **An applicant will not be hired until after a verified negative DOT drug and DOT alcohol test is obtained.** If a test is cancelled by the MRO, the prospective employee must retake and pass the test before being hired.

An employee may not transfer from a non-safety sensitive position to a safety-sensitive position until they take a pre-employment drug and alcohol test with verified negative results.

DTPW is required to obtain a release from all applicants for the purpose of obtaining drug and alcohol test results from their previous employer. Applicants that refuse to sign an DTPW provided release form will not be considered for safety-sensitive hiring.

*A positive drug or alcohol test result will disqualify an external applicant for employment consideration with Miami-Dade County for a period of six (6) months. Internal applicants will be subject to disciplinary actions up to and including dismissal.*

An applicant who has previously failed or refused a required drug or alcohol test must provide proof of having successfully completed a Substance Abuse Professional (SAP) treatment plan, follow-up testing, and has taken and passed a return-to-duty test. Applicants who fail to provide this information will not be considered for safety-sensitive hiring.

It is an FTA policy that when a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result.

*Failure to appear for the scheduled test will result in the employee being placed on unpaid leave until a pre-employment test is taken and negative results are obtained. Additionally, employees who fail to comply with management instructions may be subject to disciplinary action.*

*DTPW bus operators that have been out of work for 30 consecutive calendar days or longer for any medical reason, including workers' compensation accidents, must take and pass a complete physical before returning to drive the bus.*

*External applicants or internal applicants temporarily disqualified for a medical condition will not be hired until the Medical Review Officer has cleared them to perform safety-sensitive functions.*

### **Post-Accident Testing**

#### Requires:

- DOT drug and alcohol tests.
- Supervisor must transport and escort the employee into the testing site and return the employee to the workplace.
- FTA Post-Accident Report completed by the supervisor at the scene of the accident and a copy sent to DTPW Human Resources.

## Definition of Accident

Testing for prohibited drugs and alcohol will be conducted in the case of certain **public transportation** accidents. An accident by the FTA is an occurrence associated with the operation of a vehicle in which:

- An individual dies, or
- An individual receives injuries requiring immediate transport to a medical treatment facility, or
- With respect to an occurrence in which the **public transportation** vehicle involved is a bus, electric bus, van or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle or are removed from service; or
- With respect to an occurrence in which the **public transportation** vehicle involved is a rail car, trolley car, trolley bus, or vessel, the **public transportation** is removed from operation.
- Disabling damage does not include damage to headlights, turn signals, horn, windshield wipers, and tires or other damage that could be remedied temporarily at the scene of the occurrence if special tools or parts were available.

## Requirement to Remain Readily Available for Post-Accident Testing

A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing. A covered employee is not prohibited from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

*A covered employee who leaves the accident scene without proper authorization prior to submitting to a drug or alcohol test will be considered by DTPW to have refused the test and will be subject to disciplinary action up to and including dismissal. (See Consequences, Refusal to Test Violations.)*

## Fatal Accidents

Covered employees must be tested for prohibited drug and alcohol concentration as soon as practicable following an accident involving the loss of human life, regardless of circumstances. Each surviving covered employee operating the **public transportation** vehicle at the time of the accident shall be tested. The employer shall also test any other covered employee whose performance could have contributed to the accident, as determined by the employer, using the best information available at the time of the decision.

*The employee must be relieved from duty pending the results of the post-accident drug and alcohol tests for all fatal accidents.*

## Nonfatal Accidents

Covered employees shall be tested for prohibited drug and alcohol concentration as soon as practicable following an accident not involving the loss of human life. The employer shall test each covered employee operating the **public transportation** vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. All decisions related to post accident testing must be documented in detail, using the DTPW /FTA Post Accident Report Form including the decision-making process used to reach a decision not to test. The employer shall also test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

If an alcohol test is not administered within **two hours (2)** following the accident, the employer shall prepare and maintain on file a record stating the reason that the test was not promptly administered. If an alcohol test is not administered within **eight hours (8)** following the accident, attempts to administer an alcohol test shall cease and a record shall be maintained. Records shall be submitted to the FTA upon request of the Administrator.

A post-accident drug test is required as soon as practicable but within **32 hours** of the accident. If a required drug test is not administered within 32 hours following the accident, the employer shall prepare and maintain on file a record stating the reason that the test was not promptly administered.

The employer may use the results of blood, urine, or breath tests for the use of determining prohibited drugs or the misuse of alcohol, conducted by Federal, State, or local officials having independent authority for the tests. Such tests may be used only when the employer is unable to perform a post-accident test within the required time period.

*Management may decide to relieve an employee from safety-sensitive duty with pay pending the results of the post-accident test. Management must notify DTPW Human Resources as soon as possible that the employee was relieved pending the post-accident test results. DTPW Human Resources will then notify management when the results are received in order to minimize impact in operations. Post-accident testing that does not meet FTA post-accident criteria can only be performed under the Miami-Dade County Testing Protocol. (See also Miami-Dade County Testing Protocol and Administrative Order 7-29.)*

## **Random Testing**

### Requires:

- DOT drug and alcohol tests.
- FTA Random Drug and Alcohol Notification Form.

DTPW is required to randomly test covered employees at the minimum annual rate set by the FTA Administrator.

The selection of employees for random alcohol testing and prohibited drug testing shall be made by a scientifically valid method, such as random number table or a computer based random number generator that is matched with the employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

The employer shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random alcohol and prohibited drug testing determined by the Administrator.

The employer shall ensure that random tests are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed.

Once notified of selection for random testing, a covered employee must proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately. A covered employee may be randomly drug tested for the five specified drugs (marijuana, cocaine, opioids, amphetamines, phencyclidine) anytime while on duty, and consumption of these products is prohibited at all times. A covered employee shall only be randomly tested for alcohol misuse 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.

*Covered employees not available on the day of their selection will be tested on the first day back to work unless the covered employee is on a long-term absence.*

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

#### Requires:

- DOT drug and alcohol test.
- Reasonable Suspicion Checklist completed by the supervisor making the determination to send the employee for testing.
- Employee must be in the supervisor's presence at all time. The supervisor must transport the employee and escort the employee into the testing site and return the employee to their workplace.
- *Employee must be removed from duty with pay pending the results of the drug and alcohol test.*

Covered employees displaying the signs and symptoms of drug use or alcohol misuse are required to submit to reasonable suspicion drug and alcohol testing when directed.

A decision to test for reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odor of the covered employee.

**Only supervisor(s) or other company official(s) trained in reasonable suspicion testing can make the required observations for DOT reasonable suspicion tests.**

Alcohol testing is authorized by this section only if the observations required by this section are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only 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.

### Time Requirements

If a reasonable suspicion alcohol test is not administered within **two (2) hours** following determination of reasonable suspicion, the employer shall prepare and maintain on file a record stating the reason the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within **eight (8) hours** following determination of reasonable suspicion, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not completing the test.

*An employee displaying the signs and/or symptoms of drug use or alcohol misuse and sent for reasonable suspicion testing must be relieved from duty after taking the reasonable suspicion test. The employee cannot return to safety-sensitive duty until a negative test result is obtained.*

*A reasonable suspicion referral that does not meet the FTA reasonable suspicion criteria can only be performed using the Miami-Dade County Testing Protocol. (See also Miami-Dade County Testing Protocol and Administrative Order 7-29.)*

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

#### Requires:

- DOT drug **and/or** alcohol test.
- Requires clearance by the Substance Abuse Professional to return to work.

Covered employees that were removed from duty because of a refusal to test or because of a positive drug or alcohol test result must take and pass a return-to-duty test before returning to work. A return-to-duty test will include testing for both prohibited drugs and alcohol. The employee must have a negative drug test and an alcohol test result of less than 0.02 to return to a safety-sensitive function.

(See Prohibited Drug and Alcohol Testing Procedures section for new collection procedures.)

### ***Follow-up Testing After Return-to-Duty***

#### Requires:

- DOT drug and alcohol tests.
- FTA Random Drug and Alcohol Notification Form.

Covered employees that have passed a return-to-duty test will be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The duration of the follow-up testing will be recommended by the Substance Abuse Professional with a minimum of six (6) tests performed during the first twelve (12) months after the employee has returned to duty.

(See Prohibited Drug and Alcohol Testing Procedures section for new collection procedures.)

Follow up testing for a DOT violation may only be conducted while an employee is performing safety-sensitive functions.

## COUNTY TESTING

### *Miami-Dade County Testing Protocol*

*Covered employees are also subject to County non-federally administered alcohol tests and drug tests **using non-federal forms**. Drug tests may also test for other drugs in addition to those required by DOT. The level at which a result from a test administered pursuant to Miami-Dade County policy or contract language is a confirmed positive may be different than the level for tests conducted pursuant to federal regulations. County administered drug and alcohol tests will be conducted in accordance with the Miami-Dade County Testing Protocol.*

## CONSEQUENCES

### *Refusal to Test Violations*

The following behaviors displayed, but not limited to, by covered employees or applicants during drug or alcohol testing shall constitute a refusal to test:

- Failure to appear for any test (**except a pre-employment test**) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- Failure to remain at the testing site until the testing process is complete;
- Failure to provide a urine specimen, breath or saliva sample for any drug and alcohol test required by DOT or FTA regulations;
- Failure to permit a direct observation or monitoring of your provision of a specimen;
- Failure to provide a sufficient amount of urine or breath without an adequate medical explanation;
- Failure or decline to take a second test the employer or collector requests you to take;

- Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Departmental Employer Representative (DER) as part of the shy bladder or insufficient breath procedures;
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process);
- Failure in an observed collection to follow the observers 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 device or other device that could be used to interfere with the collection process;
- **Possess or wear a prosthetic device or other device that could be used to interfere with the collection process;**
- When an employee admits to have adulterated his/her sample or substituting a specimen to the MRO or the collector;
- If the MRO reports that your urine sample is determined to be a verified adulterated or substituted specimen;
- A covered employee who leaves the accident scene without proper authorization prior to submitting to a drug or alcohol test;
- Failure to sign the certification at Step 2 of the Alcohol Testing Form;
- Refusing to wash his or her hands;
- Admitting to adulterating or substituting a specimen.

*The above behaviors constitute a violation of the DTPW Drug and Alcohol Testing Policy and constitute a refusal to test for DOT tests only. The covered employee shall be relieved of duty immediately and shall be subject to disciplinary action up to and including dismissal. (See Employer Action on Positive Test Result and Refusal to Test.)*

#### **Employer Action on Positive Test Result and Refusal to Test**

Immediately after receiving notice from a MRO that a covered employee has a verified positive drug test, the employer shall remove the covered employee from safety-sensitive duty immediately.

Immediately after receiving notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater, the employer shall remove the covered employee from safety-sensitive duty immediately. *An employee that has a positive alcohol test will not be allowed*

*to drive a County vehicle or personal vehicle. DTPW management will make arrangements for the employee to be sent home.*

If a covered employee refuses to submit to a required drug or alcohol test, the employer shall remove the covered employee from safety-sensitive duty immediately. (See also Refusal to Test Violations.)

A covered employee that was removed from duty because of a refusal to test or because of a positive drug or alcohol test result must be referred to a Substance Abuse Professional (SAP). The employee must also meet the requirements for returning to duty, including taking a return-to-duty test. (See also Referral, Evaluation and Treatment; Return-to-Duty Testing; Follow-up Testing After Return-to-Duty.)

### ***Referral, Evaluation, and Treatment***

Employees that refuse to test or test positive for prohibited drug and alcohol will be advised of resources available for evaluating and resolving problems associated with substance abuse and alcohol misuse, including the names, addresses, and telephone numbers of the SAP and counseling and treatment programs.

*The provisions of this section are not meant to convey to an employee the right to raise a problem with substance abuse as a defense to the commission of an act that may result in disciplinary action.*

*Under certain circumstances, employees may be required to undergo treatment for substance abuse. A covered employee who refuses or fails to comply with treatment requirements, after care, or return-to-duty requirements, shall be subject to disciplinary action up to and including dismissal.*

*Assessment by a SAP does not shield an employee from disciplinary action or guarantee continued employment with DTPW. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. If applicable and available, employees will be permitted to take leave to participate in the prescribed rehabilitation program.*

*Employees who are permitted to return to work must enter into a written return to work contract with DTPW. Any violations of the provisions of the contract will result in disciplinary action up to and including dismissal.*

### **Employee Support Services**

*The Miami-Dade County Employee Support Services (ESS), (305) 375-3293, is a service designed to provide assistance to employees whose personal problems are affecting their ability to function on the job, at home, or in society. DTPW encourages employees that have a drug or alcohol problem to seek help immediately through ESS.*

*A covered employee cannot admit to a drug or alcohol problem once they are notified to proceed to take a DOT drug/alcohol test. Employees are notified that admitting to a drug or alcohol problem does not exempt them from the consequences of any drug and/or alcohol violation described in this policy.*

**Discipline Policy**

*Covered employees, with the exception of part-timer safety-sensitive employees as more fully explained below, who test positive for prohibited drugs and/or alcohol on the first occurrence, excluding post-accidents, will be offered a continued work agreement in lieu of dismissal. The agreement will include a minimum ten (10) day disciplinary suspension, forfeiture of appeal rights, evaluation and mandatory follow-up testing as determined by the SAP. Second occurrences of violations of the DTPW Drug Use and Alcohol Misuse Policy and Procedures Handbook shall result in a dismissal recommendation, pursuant to the terms and conditions of the continued work agreements. To clarify DTPW's long-standing past practice, the continued work agreement and suspension for first occurrences that is provided in this policy does not apply to part-time safety sensitive employees. Consistent with long-standing DTPW past practice, part-time safety sensitive employees that violate this policy will not be offered a continued work agreement and a suspension and instead shall be subject to discipline including dismissal consistent with management rights and the personnel rules.*

*Additionally, employees arrested for being under the influence and/or involved in actions that prohibit the unlawful manufacture, distribution, attempt to purchase, dispensing, possession, trafficking, sales, or use of controlled substances, refusals to submit to drug/alcohol testing as defined in the policy guidelines and/or first positives resulting from post-accident testing shall be reviewed by the Director of DTPW as a dismissal recommendation and subject to dismissal.*

**Notifying DTPW of Criminal Drug Conviction or Arrest**

*Employees arrested on or off-duty are required to notify DTPW including but not limited to those related to drug charges for possession, sale, manufacture, dispensing, attempt to purchase, distribution, or trafficking, and DUI within three days of the arrest. (See also Administrative Order 7-39.)*

**RETENTION OF RECORDS**

DTPW shall maintain all alcohol and prohibited drug testing information including test results and other appropriate records in a secure manner to prevent the disclosure of such information to unauthorized personnel. The records shall be maintained in a secure location with controlled access.

Period of retention – In determining compliance with the retention period requirement, each record shall be maintained for the specified period of time, measured from the date of the creation of the document or data. Records shall be maintained in accordance with Section 655.71.

Access to facilities or records will be allowed as required by law or expressly authorized in Section 655.71.

Employees must submit a written request to DTPW Human Resources for copies of their drug and alcohol test results. Employees must request in writing to have their drug and alcohol records released/forwarded to any agency or business requesting verification of previous drug and alcohol test results.

## PROHIBITED DRUG AND ALCOHOL TESTING PROCEDURES

Covered employees and applicants must submit to drug and alcohol collection procedures in accordance with 49 CFR Part 40 as amended.

Covered employees and applicants must follow directions given for the purpose of collecting their drug, alcohol, or saliva sample. Failure to comply constitutes a refusal to test and the employee or applicant will be subject to disciplinary action up to and including dismissal. (See Employer Action on Positive Test Result and Refusal to Test.)

Drug testing will be conducted using urine samples as referenced in 49 CFR Part 40. Alcohol testing will be conducted using breath or saliva samples as referenced in 49 CFR Part 40.

DOT Part 40 regulations require that all follow up tests and return-to-duty tests must be directly observed. Employees must raise their shirts, blouses, or dresses/skirts, as appropriate above the waist and lower their pants and underpants to show the observer, by turning around that they do not have a prosthetic device on their person. After this is done, they may return their clothing to its proper position and contribute a specimen in such manner that the observer can see the urine exiting directly from the individual into the collection container, as required under current regulations.

**An immediate observed collection will also occur as indicated in section 40.67:**

**(a) As an employer, you must direct an immediate collection under direct observation with no advance notice to the employee, if:**

- (1) The laboratory reported to the Medical Review Officer (MRO) that a specimen is invalid, and the MRO reported to you that there was not an adequate medical explanation for the result;**
- (2) The MRO reported to you that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed; or**
- (3) The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1) ).**

**(b) As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.**

**(c) As a collector, you must immediately conduct a collection under direct observation if:**

- (1) You are directed by the DER to do so (see paragraphs (a) and (b) of this section); or**
- (2) You observed materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen (see §§40.61(f)(5)(i) and 40.63(e)); or**
- (3) The temperature on the original specimen was out of range (see§40.65(b)(5)); or**
- (4) The original specimen appeared to have been tampered with (see§40.65(c)(1)).**

**(d)(1) As the employer, you must explain to the employee the reason for a directly observed collection under paragraph (a) or (b) of this section.**

**(2) As the collector, you must explain to the employee the reason, if known, under this part for a directly observed collection under paragraphs (c)(1) through (3) of this section.**

**(e) As the collector, you must complete a new CCF for the directly observed collection.**

**(1) You must mark the "reason for test" block (Step 1) the same as for the first collection.**

**(2) You must check the “Observed, (Enter Remark)” box and enter the reason (see §40.67(b)) in the “Remarks” line (Step 2).**

**(f) In a case where two sets of specimens are being sent to the laboratory because of suspected tampering with the specimen at the collection site, enter on the “Remarks” line of the CCF (Step 2) for each specimen a notation to this effect (e.g., collection 1 of 2, or 2 of 2) and the specimen ID number of the other specimen.**

**(g) As the collector, you must ensure that the observer is the same gender as the employee. You must never permit an opposite gender person to act as the observer. The observer can be a different person from the collector and need not be a qualified collector.**

**(h) As the collector, if someone else is to observe the collection (e.g., in order to ensure a same gender observer), you must verbally instruct that person to follow procedures at paragraphs (i) and (j) of this section. If you, the collector, are the observer, you too must follow these procedures.**

**(i) As the observer, you must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show you, by turning around, that they do not have a prosthetic device. After you have determined that the employee does not have such a device, you may permit the employee to return clothing to its proper position for observed urination.**

**(j) As the observer, you must watch the employee urinate into the collection container. Specifically, you are to watch the urine go from the employee's body into the collection container.**

**(k) As the observer but not the collector, you must not take the collection container from the employee, but you must observe the specimen as the employee takes it to the collector.**

**(l) As the collector, when someone else has acted as the observer, you must include the observer's name in the “Remarks” line of the CCF (Step 2).**

**(m) As the employee, if you decline to allow a directly observed collection required or permitted under this section to occur, this is a refusal to test.**

**(n) As a service agent, when you learn that a directly observed collection should have been collected but was not, you must inform the employer that it must direct the employee to have an immediate recollection under direct observation.**

All insufficient breath alcohol test results (shy lung) and all inability to produce urine samples (shy bladders) will result in the employee being relieved from duty immediately pending a medical evaluation. *The employee will be instructed to proceed to the County Medical Review Officer (MRO) to conduct the medical evaluation.* If there is no valid medical reason for not providing a breath sample or urine sample, the employee will be considered a refusal to test. (See Employer Action on Positive Test Result and Refusal to Test.)

The covered employee relieved from duty because of a shy lung or shy bladder cannot return to safety-sensitive duty until they are cleared by the MRO.

Covered employees that are informed by the MRO of a confirmed positive drug test result, or a verified refusal to test because of adulteration or substitution, have 72 hours to request a test of the split specimen sample. If an employee requests an analysis of the split specimen within 72 hours of notification of a verified positive test, or a verified refusal to test because of adulteration or substitution, the MRO shall direct the laboratory in writing to provide the split specimen sample to another Department of Health and Human Services (DHHS) certified laboratory for analysis as required in Part 40 procedures.

*During the time for the retest, the employee will be placed on relieved of duty with pay pending the results of the split specimen sample. The employee can only resume safety-sensitive functions if the MRO declares the test is negative. If the MRO declares the test is positive, the employee will be relieved of duty immediately. (See Employer Action on Positive Test Result and Refusal to Test.)*

*Copies of 49 CFR Part 40 (Procedures for Workplace Drug and Alcohol Testing) will be maintained for reference in the offices of each division chief, the collection site, and at DTPW Human Resources. A copy of 49 CFR Part 40 may also be found along with the DTPW Drug and Alcohol Testing Policy on TRANSITNET.*

## **APPENDIX A**

### ***Contact Information and Services***

#### **Medical Review Officer**

Dr. Dorothy Contiguglia Akcan, Dr. Maria Peralta  
8900 SW 117 Avenue, Suite B-202, Miami, FL 33186, (786) 466-8468

#### **Substance Abuse Professional (See also Employee Support Services)**

Jessica Hughes-Fillette, Miami Dade County, Substance Abuse Professional (SAP)  
601 NW 1<sup>st</sup> Court Suite 15-050, South Tower, Overtown Transit Village, (305) 375-3293

#### **Certified DHHS Testing Laboratory**

MEDTOX Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112

#### **Employee Support Services**

601 NW 1<sup>st</sup> Court Suite 15-050, South Tower, Overtown Transit Village, (305) 375-3293

#### **Departmental Employer Representative (DER)**

DTPW Human Resources Medical Unit  
Monday – Friday, regular office hours (786) 469-5229  
After hours 24-hour Cellular (786) 256-3436

Lydia M. Knight, Chief, Human Resources (DER)

Michael Viera, Human Resource Manager, Drug/Alcohol Program Manager – (DAPM)

Tineka Jones- Johnson (DER)

Eniscia Petit – (DER)

Rudy Ortiz - (DER)

Lucretia Moore – (DER)

#### **Jackson Testing Centers Monday – Friday 7AM – 5PM**

##### **Jefferson Reaves Sr. Health Center**

1009 NW 5<sup>th</sup> Avenue  
Miami, FL 33136, (786) 466-7200

##### **North Medical Center**

100 NW 170<sup>th</sup> Street, Ste. 405  
North Miami Beach, FL 33169, (305) 654-6851

##### **Park Plaza Kendall**

8900 SW 117 Avenue, Suite B-202  
Miami, FL 33186, (786) 466-8468

#### **After-hours Testing Center- Monday – Friday After 5PM, Saturday and Sunday 24-hours**

##### **Jackson Memorial Hospital Emergency Room**

1611 NW 12 Avenue  
Miami, FL (305) 585-6910



**APPENDIX B*****DTPW Safety-Sensitive Classifications***

The following occupations have been reviewed and determined to be safety-sensitive. DTPW will periodically review current and newly created occupations for required DOT drug and alcohol testing.

8002	Bus Hostler	8097	Rail Struc Inspection Specialist
8006	Bus Maintenance Technician	8102	Transit Supervisor
8010	Bus Body Technician	8104	Transit Dispatcher
8019	Transit Painter	8106	DTPW Oper/Maint Instructor
8021	Transit Fac Equipment Tech	8107	DTPW Oper/Maint Training Supervisor
8022	Transit Welder	8108	Transit Operations Supervisor
8033	Transit Facilities Repairer	8110	Bus Traffic Controller
8035	Bus Stock Clerk	8120	Transit Purchasing & Store Supv.
8042	Transit Revenue Collector	8127	Transit Mech Shop Supervisor
8050	Bus Operator	8129	Transit Body Paint Shop Supv.
8052	Transit Electronic Tech/Lab	8131	Transit Painter Supervisor
8054	Guideway Inspection Specialist	8133	Transit Yard Supervisor
8055	Rail Vehicle Tech Track and Guideway	8135	Transit Facilities Supervisor
8056	Rail Vehicle Machinist	8144	DTPW Electronic Tech Supervisor
8059	Rail Vehicle Tech/ATP	8160	Rail Traffic Controller
8060	Rail Technician/Train Control	8161	Chief Supv, Rail Traffic Control
8061	Rail Technician/Traction Power	8163	Rail Supervisor
8063	Rail Maintenance Worker	8164	Rail Yard Master
8064	Track Repairer	8168	Rail Vehicle Maint Supv
8065	Rail Structure Repairer	8171	Traction Power Supervisor
8066	Track Equipment Operator	8173	Train Control Supervisor
8067	Rail Vehicle Body Mechanic-Painter	8180	Rail Struc & Track Repair Supv
8068	Rail Vehicle Electronic Tech	8183	Track Shop Supervisor
8071	Rail Vehicle Mechanic	8184	Chief Supv Rail Shop Maint
8073	Train Operator	8185	Chief Supv Rail Track Maint
8074	Rail Stock Clerk	8188	Metromover Maint Supv
8082	Metromover Technician	8220	Transit Revenue Collector Supv
8083	Transit Electronic Technician		
8084	Transit Electronic Tech/Radio		
8085	Transit Electronic Tech/Systems		
8089	Senior Transit Telecom Tech		

January 4, 2024

**APPENDIX C****Definitions:**

**Accident** - An occurrence associated with the operation of a vehicle, if as a result –

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

**Administrator** - The administrator of the Federal Transit Administration (FTA) or the Administrator's designee.

**Anti-drug Program** - A program to detect and deter the use of prohibited drugs as required by this part.

**Breath Alcohol Technician (BAT)** – An individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing (EBT).

**Certification** – A recipient's written statement, authorized by the organization's governing board or other authorizing official that the recipient has complied with the provisions of this part. (See 49 CFR Part 655.82 and 655.83 for certification requirements.)

**Contractor** – A person or organization that provides a safety-sensitive service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

**Covered Employee** – A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to this part; however, a volunteer is a covered employee if:

- (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or
- (2) The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaging in the volunteer activity.

**Disabling damage** – Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (3) Inclusion. Damage to a motor vehicle, were the vehicle could have been driven, but would have been further damaged if so driven.
- (4) Exclusion.
  - (i) Damage that can be remedied temporarily at the scene of the accident without special tools or parts.
  - (ii) Tire disablement without other damage even if no spare tire is available.
  - (iii) Headlamp or tail light damage.
  - (iv) Damage to turn signals, horn, or windshield wipers which make the vehicle inoperable.

**DOT or the Department** – The United States Department of Transportation.

**DOT Agency** – An agency (“or operating administrator”) of the United States Department of Transportation administering regulations requiring drug and alcohol testing. (See 14 CFR part 95; 46 CFR parts 4,5,and 16; and 49 CFR parts 199, 219, 382, and 655.)

**DTPW** – Department of Transportation and Public Works

**Employer** – A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient of other entity. This term includes sub-recipients, operators and contractors.

**FTA** – The Federal Transit Administration, an agency of the United States Department of Transportation.

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

**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 rate** – The sum of the annual number of positive results for random drug test conducted under this part plus the annual number of refusals to submit to a random drug test authorized under this part divided by the sum of the annual number of random drug tests conducted under this part plus the annual number of refusals to submit to a random drug test authorized under this part.

**Prohibited Drugs** – marijuana, cocaine, opioids, amphetamines, or phencyclidine.

**Railroad -**

- (1) all forms of non-highway ground transportation that run on rails or electromagnetic guide ways, including;
  - (i) commuter or other short-haul rail passenger service in a metropolitan or suburban area, as well as any commuter rail service that was operated by the Consolidated Rail Corporation as of January 1, 1979, and
  - (ii) High speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.
- (2) Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.

**Recipient** – An entity receiving federal financial assistance under 49 U.S.C.5307, 5309, or 5311; or under 23 U.S.C. 103(e)(4).

**Refuse to Submit** – Any circumstances outlined in 49 CFR 40.191 and 40.261.

**Safety-sensitive function** – Any of the following duties performed by employees of recipients, sub-recipients, operators, or contractors:

- (1) Operating a revenue service vehicle, including when not in revenue service;
- (2) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License (CDL);
- (3) Controlling dispatch or movement of a revenue service vehicle;
- (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. 5307 or 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. 5311 and contracts out such services;
- (5) Carrying a firearm for security purposes.

**Substance Abuse Professional (SAP)** – A licensed physician (medical doctor or doctor of osteopathy) or a 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 a state-licensed or certified marriage and family therapist; or an alcohol and drug abuse certified counselor**, with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

**Vehicle** – A bus, electric bus, van, automobile, rail car, trolley car, trolley bus or vessel. A mass transit vehicle is a vehicle used for mass transportation or for ancillary services.

**Violation rate** – The sum of the annual number of results from the random alcohol tests conducted under this part that have alcohol concentration of .04 or greater plus the annual number of refusals to submit to alcohol tests authorized under this part, divided by the sum of the annual of random alcohol tests conducted under this part plus the annual number of refusals to submit to a drug test authorized under this part.

*DTPW EMPLOYEES ARE OUR MOST VALUABLE RESOURCE.*

*Notes:*