



## **CITY OF WAUKESHA TRANSIT COMMISSION**

### **ZERO TOLERANCE DRUG AND ALCOHOL POLICY FOR EMPLOYEES IN SAFETY-SENSITIVE JOB FUNCTIONS**

**Summary:** This is a zero tolerance policy covering this transit system and is applicable to all CITY OF WAUKESHA TRANSIT COMMISSION employees who are incumbents in safety-sensitive positions, to all applicants or employees who may apply for or who may transfer to a safety-sensitive position, and all contractors and their employees with which the City of Waukesha contracts for the operation of its transit system and to contractors who perform safety-sensitive job functions. This program was initially installed by this corporation February 5, 2014.

The Drug and Alcohol Program Manager/Designated Employer Representative for this location is Donald G Jans, Compliance Specialist.

Date this revision of the CITY OF WAUKESHA TRANSIT COMMISSION Drug and Alcohol Policy was installed at this location Changes effective June 1, 2018.

## **I. INTRODUCTION**

CITY OF WAUKESHA TRANSIT COMMISSION is dedicated to providing safe, dependable transportation services to our passengers. We are also dedicated to providing a safe, drug and alcohol-free workplace for our employees.

Drug and alcohol testing is mandated by the Federal Transit Administration (FTA) and the U.S. Department of Transportation (DOT) in 49 CFR Part 40, and Part 655, as amended. In addition, drugs are prohibited in the workplace by the "Drug-Free Workplace Act of 1988." The regulations implementing this Act are located in 49 CFR Part 29. CITY OF WAUKESHA TRANSIT COMMISSION is required to comply with these regulations. The following policy and procedures will apply to you based upon the job functions you perform for CITY OF WAUKESHA TRANSIT COMMISSION, and all contractors and their employees with which the City of Waukesha contracts for the operation of its transit system.

This program as amended became effective on February 5, 2014.

## **II. POLICY ADOPTION**

The CITY OF WAUKESHA TRANSIT COMMISSION Board of Directors has adopted this policy.

Note: Additional requirements and/or disciplinary actions established under CITY OF WAUKESHA TRANSIT COMMISSION's own authority are entered in *ITALICS*.

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Brian Engelking, Transit Manager

\_\_\_\_\_  
Date

## **III. EMPLOYEE CATEGORIES SUBJECT TO TESTING**

Employees subject to the provisions of the anti-drug and alcohol misuse prevention program are all safety-sensitive classifications. Safety sensitive function means any of the following duties, when performed by employees of CITY OF WAUKESHA TRANSIT COMMISSION or its contractors or sub-contractors:

1. Operating a revenue service vehicle, including when not in service;
2. Operating a non-revenue service vehicle, when required to be operated by a CDL holder;
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;
5. Carrying a firearm for security purposes.

A list of the job titles specifically considered to be safety sensitive is contained in Appendix A.

Supervisors are subject to the provisions **only** if they perform, or may be called upon to perform a safety-sensitive function.

Participation in the drug and alcohol testing program is a requirement of each safety sensitive employee, and therefore, is a condition of employment.

#### **IV. PROHIBITED BEHAVIOR**

The DOT prohibited drugs – marijuana, cocaine, opiates, amphetamines (which includes MDMA-Ecstasy) / methamphetamines, PCP are always illegal and employees are prohibited from consuming any of them at any time.

The “opioid” category will continue to test for codeine, morphine, and heroin; however, the “opioid” testing panel will now be expanded to include four (4) new semi-synthetic opioids:

1. (1) Hydrocodone, (2) Hydromorphone, (3) Oxycodone, and (4) Oxymorphone.
2. Common brand names for these semi-synthetic opioids include, but may not be limited to: OxyContin®, Percodan®, Percocet®, Vicodin®, Lortab®, Norco®, Dilaudid®, Exalgo®.

*In addition, under the Drug-Free Workplace Act, the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace is prohibited at any time. Use of prescription drugs which may impair job performance or mental or motor function by an employee or any other person to whom this Policy applies while on company premises or in the course of conducting company business, including while subject to being on-call in a paid status, at lunch or on breaks, is strictly prohibited. Employees covered by this policy can be tested for prohibited drugs anytime while on duty.*

Safety sensitive employees may not use alcohol from any source while on duty, within four (4) hours prior to performing safety-sensitive duty, while subject to being on-call in a paid status, or within eight (8) hours following an accident requiring an alcohol test, unless the test was completed within eight hours. The possession or use of alcohol on company premises or while in the course of conducting company business is strictly prohibited.

*CITY OF WAUKESHA TRANSIT COMMISSION strongly encourages employees to abstain from alcohol consumption for at least 8 hours prior to performing safety sensitive duties.*

Alcohol tests may only be conducted just before, during, or just after an employee's performance of a safety-sensitive function. Covered employees are prohibited from reporting to or remaining on duty with an alcohol concentration of 0.02 or greater. **All alcohol tests should be conducted BEFORE drug collections are conducted in each instance of combined collections.**

## **V. NOTICE OF CONVICTIONS**

*It is the policy of CITY OF WAUKESHA TRANSIT COMMISSION that employees notify the company within 5 days of any criminal drug statute conviction for a felony or misdemeanor violation occurring in the workplace. Within 10 days of receiving notice that an employee has been convicted of a criminal drug offense in the workplace, CITY OF WAUKESHA TRANSIT COMMISSION will provide written notice of the conviction to the federal government. Within 30 days, CITY OF WAUKESHA TRANSIT COMMISSION will make a determination of action based upon the incident. Employees convicted of drug offenses will be subject to discipline up to and including termination.*

## **VI. EMPLOYEE SELF-REFERRAL INTO A SUBSTANCE ABUSE TREATMENT PROGRAM**

*It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that a safety sensitive employee may refer himself or herself, prior to being notified of or otherwise subject to an upcoming substance abuse test, into a substance abuse program, by reporting his or her substance abuse problem to the Substance Abuse Program Administrator, their immediate supervisor, or department manager. The Substance Abuse Program Administrator will make a referral to the Substance Abuse Counselor (SAC) and place the employee on unpaid Administrative Suspension. Once notice has been received from the SAC that the employee is ready to return to duty and has been compliant with the prescribed treatment plan, the employee will be required to take a non-DOT Return to Duty test and be subject to non-DOT Follow-Up testing as directed by the SAC.*

*In the instance of a self-referral, the employee will be subject to non-USDOT return-to-duty and follow-up testing modeled using the process described in 49 CFR Part 40. However, all non-USDOT return-to-duty and non-USDOT follow-up tests and all paperwork associated does not constitute a violation of the Federal regulations and will be conducted under the sole authority of CITY OF WAUKESHA TRANSIT COMMISSION on non-USDOT testing forms.*

## **VII. CIRCUMSTANCES FOR TESTING**

Any testing, done in addition to an FTA-required test will be secondary and require totally separate void or breath sample from the FTA test. *Policy mandates that employees selected for drug and /or alcohol testing be provided a notification form which documents the referral to testing. The form should specify the type of test required, the date and time the employee was notified, time the employee arrived at the collection site and authority mandating the test. The completed form should be returned to CITY OF WAUKESHA TRANSIT COMMISSION upon completion of the test, and filed for reference. (Formatted notification forms can be found in the CITY OF WAUKESHA TRANSIT COMMISSION Safety Policies and Procedures Manual.*

DOT tests must be completely separate from Non-DOT tests in all respects.

### **A. Pre-Employment**

Following a conditional offer of employment, applicants for all safety-sensitive positions will undergo urine drug testing as a condition of employment. Applicants will be notified of the testing requirement during the application process.

A verified negative test result is required prior to performing any safety-sensitive functions and is a condition of employment. If the test is cancelled, the applicant must re-take the test and receive a verified negative test result prior to performing any safety-sensitive function and is a condition of employment. In the event that a pre-employment test is determined by the MRO to be a verified “negative dilute” result, the applicant is required by CITY OF WAUKESHA TRANSIT COMMISSION to re-test, and receive (the equivalent of) a verified negative test result before performing any safety sensitive function. The results of the second test will be considered the test result of record. Contact the corporate Drug and Alcohol Program Manager if there are questions.

Applicants will be asked whether he/she has ever been refused employment because of a positive pre-employment drug test. Applicants will be required to provide the name and complete contact information for all DOT covered employers for the previous two years. Applicants are required to provide a consent statement permitting the previous DOT covered employers to release drug and alcohol test results to CITY OF WAUKESHA TRANSIT COMMISSION. Applicants who have previously failed a drug or alcohol test will not be considered for employment until he/she provides proof of having successfully

completed a referral, evaluation and treatment plan as described in 49 CFR Part 655.62, subpart G.

Current employees transferring into safety-sensitive positions will not be allowed to perform safety sensitive duties until the employee undergoes a pre-employment drug test with a verified negative result. Additionally, any current employee returning to a safety sensitive position after an absence of 90 days or more, and who has been out of the random pool during this time, must undergo a pre-employment drug test with a verified negative result before performing safety sensitive duties.

## **B. Reasonable Suspicion**

A safety-sensitive employee shall be required to submit to a FTA reasonable suspicion drug and/or alcohol test when a supervisor or company official suspects the employee has used a prohibited drug or misused alcohol. The testing referral will be made by a supervisor or company official trained in detecting the signs and symptoms of drug use and alcohol misuse in making the required observations based upon specific, contemporaneous, and articulable observations concerning the appearance, behavior, speech, or body odor of the employee. A reasonable suspicion test for drugs can be conducted anytime a covered employee is on duty. A reasonable suspicion alcohol test is authorized only if observations are made during, just preceding, or just after the performance of safety-sensitive functions.

*It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that in any Reasonable Suspicion circumstance, the supervisor will transport the employee to an appropriate collection site facility and await the completion of the collection procedure. The Supervisor will then transport the employee back to CITY OF WAUKESHA TRANSIT COMMISSION premises, where a spouse, family member, or other individual will be contacted to transport the employee to his/her home. In the event no such individual is available, CITY OF WAUKESHA TRANSIT COMMISSION will transport the employee to his/her home. If the employee refuses to agree to be transported and attempts to operate his/her own vehicle, CITY OF WAUKESHA TRANSIT COMMISSION will make appropriate efforts to discourage the employee from doing so, up to and including contacting local law enforcement officials. Any employee, failing to cooperate with the procedures described above, will be subject to disciplinary action up to and including termination of employment.*

*It is the policy of CITY OF WAUKESHA TRANSIT COMMISSION that any employee required to submit to a reasonable suspicion test may not perform safety sensitive duties pending the outcome of the drug and alcohol test. The employee will be placed on an Administrative Suspension pending the results of the drug tests. Employees placed on an Administrative Suspension must be in a position to be easily contacted by CITY OF WAUKESHA TRANSIT COMMISSION once the*

*results of the Substance Abuse Test are reported. Employees who cannot be easily contacted within a reasonable time period will be considered to have abandoned their job and are subject to termination.*

*If the employee tests negative, he or she may return to work in their position and will be reimbursed for any regularly assigned work lost.*

### **C. Post-Accident (FTA)**

All safety-sensitive employees will be required to undergo FTA post-accident drug and alcohol tests if they are involved in an accident with a mass transit vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes all surviving safety-sensitive employees that operated the vehicle and any other whose performance could have contributed to the accident.

In addition, all safety-sensitive employees will be required to undergo FTA post-accident drug and alcohol tests if an accident results in injuries requiring immediate transportation to a medical treatment facility, or one or more of the vehicles involved incurs disabling damage. In a non-fatality situation, testing may be waived if the operator can be completely discounted as a contributing factor to the accident, based upon the best information available at the time of the decision. All other covered employees whose performance could have contributed to the accident will also be required to undergo FTA post-accident drug and alcohol tests.

Post-accident alcohol tests will be conducted as soon as possible following the accident. If the post-accident alcohol test is not completed within two hours of the accident, the company will file a report as to the reason why. If the post-accident alcohol test is not completed within eight hours of the accident, the company will cease attempts to obtain a specimen and update the two-hour report as to why. Post-accident drug tests will be conducted as soon as possible, but no longer than 32 hours following the accident.

If CITY OF WAUKESHA TRANSIT COMMISSION is unable to perform post-accident tests within the required period of compliance, CITY OF WAUKESHA TRANSIT COMMISSION may use the test results administered by a Federal, State or local law enforcement agency under its own authority, provided the results are obtained by CITY OF WAUKESHA TRANSIT COMMISSION in conformance with the law.

Any covered employee subject to post-accident testing who fails to remain readily available for such testing, including notifying the company of his or her location if he or she leaves the scene of the accident prior to submission to such test, will be deemed by the company to have refused to submit to the post-accident testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any safety sensitive employee who leaves the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test.

*It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that an employee may be placed on an Administrative Suspension at the discretion of the Company pending the results of post-accident drug tests. Employees placed on an Administrative Suspension must be in a position to be easily contacted by CITY OF WAUKESHA TRANSIT COMMISSION once the results of the Substance Abuse Test are reported. Employees who cannot be easily contacted within a reasonable time period will be considered to have abandoned their job and are subject to termination.*

#### **D. Random**

Employees in safety sensitive positions will be subjected to random, unannounced testing for drugs and alcohol. CITY OF WAUKESHA TRANSIT COMMISSION will select employees for random drug and alcohol tests at the rates required by the FTA (currently 25% for drugs and 10% for alcohol, annually). The selection of safety-sensitive employees for random drug and alcohol testing will be made using a scientifically valid method, such as a random number table or a computer based random number generator that is matched with employees' Social Security numbers, payroll identification numbers or other comparable identifying numbers that ensures each covered employee has an equal chance of selection each time selections are made. Management does not have any discretion as to who will be selected. The random tests will be unannounced and spread throughout the year, the random period, all days of the week, and all hours when safety sensitive functions are performed. Random drug tests may occur at any time the employee is on duty. Random alcohol tests may only occur just before, during, or just after the employee performs safety-sensitive work. Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **Random Testing – End of Shift**



Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or child care commitment, for the period immediately following an employee's shift, must be provided at least 72 hours before the end of the shift.

#### **E. Return to Duty and Follow-Up Testing**

In general, CITY OF WAUKESHA TRANSIT COMMISSION has a "zero tolerance" policy. However, in the event that an employee who has previously violated the policy is allowed to return to work for any reason, he or she will be required to complete the return-to-duty process. This includes evaluation by a SAP, successful completion of the rehabilitation, treatment or education program outlined by the SAP, and obtaining a verified negative return-to-duty drug test and/or alcohol test under 0.02.

In addition, upon return to work, the employee will be subject to follow-up testing for drugs and/or alcohol for a minimum period of 12 months to a maximum of five years. The minimum number of tests during the first 12 months is six. Although they are both unannounced, follow-up testing is apart and separate from random testing. The duration and frequency of testing will be designated by the SAP, but the actual follow-up testing dates will be decided by the employee's manager or supervisor. Effective August 25, 2008: Follow-up and Return-to-Duty drug tests must be conducted using direct observation procedures. (Authority: Final Ruling United States Court of Appeals **FOR THE DISTRICT OF COLUMBIA CIRCUIT** Argued March 26, 2009 Decided May 15, 2009, No. 08-1264)

*Under CITY OF WAUKESHA TRANSIT COMMISSION authority, the requirements for return-to-duty and follow-up testing will apply to any employee who completes a self-referred substance abuse program. (Return to Duty and Follow Up testing conducted under CITY OF WAUKESHA TRANSIT COMMISSION authority will be conducted using a non-DOT chain of custody form. Contact your Corporate Drug and Alcohol Program Manager if there are questions.)*

**F. Post Industrial Accident/Employee Injury (CITY OF WAUKESHA TRANSIT COMMISSION Policy)**

*In addition to the FTA post-accident testing requirements, local operating policy may require post-accident drug and alcohol tests under the following circumstances:*

*Work-Related Injury/Illness*

*A post-injury drug and alcohol test is required following any work-related injury requiring medical treatment by a medical provider. In addition, any employee who is responsible for causing (or contributing to the cause of) an occupational accident resulting in a work-related injury/illness to another employee must submit to a drug and alcohol test.*

*Employees subject to company-required post industrial accident / injury testing must remain readily available for such testing or may be deemed to have refused to undergo testing.*

*An employee may be placed on an administrative suspension at the discretion of the Company pending the results of post-accident/injury drug and alcohol tests. Employees placed on an Administrative Suspension must be in a position to be easily contacted by CITY OF WAUKESHA TRANSIT COMMISSION once the results of the Substance Abuse Test are reported. Employees, who cannot be easily contacted, within a reasonable time period, will be considered to have abandoned their job and are subject to termination.*

*This location does not conduct post-industrial accident / injury testing.*

**VIII. BEHAVIOR THAT CONSTITUTES A TEST REFUSAL**

Behavior that constitutes a test refusal includes the following:

1. Failure to appear in a timely fashion for a drug or alcohol test (except for pre-employment); as determined by the CITY OF WAUKESHA TRANSIT COMMISSION DER. See policy under CITY OF WAUKESHA TRANSIT COMMISSION authority.
2. Failure to remain until the drug or alcohol testing process is complete; An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test. See policy under CITY OF WAUKESHA TRANSIT COMMISSION authority.
3. Failure to provide a breath specimen for an alcohol test; failure to provide a urine specimen for a drug test; An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to

test under FTA authority. *See policy under CITY OF WAUKESHA TRANSIT COMMISSION authority.*

4. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
5. Failure to provide a sufficient specimen with no medical explanation in a drug or alcohol test;
6. Failure to undergo a medical evaluation as required by the Medical Review Officer or supervisor;
7. Failure to cooperate with any part of the testing process;
8. Failure to take a second drug test as directed by the collector or supervisor;
9. Refusal to sign the certification at Step 2 of the Alcohol Testing Form;
10. Leaving the scene of an accident without a valid reason before a drug and alcohol test has been conducted.

Effective August 25, 2008, the following refusals to test are noted in the DOT Urine Specimen Collection Guidelines as additional behavior which constitutes a refusal to test:

1. An employee admits to the collector that he or she adulterated or substituted their specimen.
2. The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
3. The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.

In addition, the verification by the Medical Review Officer that an employee's drug test is adulterated or substituted is also considered refusal to test.

A refusal to test constitutes a violation of this policy and will be treated as a positive test result. Any employee who refuses to submit to any drug or alcohol test will be removed from safety sensitive work, provided educational materials, and referred to a substance abuse professional. *It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that refusal to submit to any drug or alcohol test will also result in termination of employment.*

*Under the authority of Waukesha Metro Transit and City of Waukesha Transit Commission, failure to report for your scheduled pre-employment test, failure to remain at the site prior to commencement of the pre-employment test, or aborting collection before the pre-employment test commences will result in the termination of the application process for employment and your offer of employment will be permanently withdrawn.*

## **IX. TESTING PROCEDURES**

All drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended, which ensures the protection of the employee and the integrity of the testing process. A copy of Part 40 is available for your review from either the corporate or local Drug and Alcohol Program Administrator upon request. Following is a brief description of the drug and alcohol testing methodology.

## A. Drug Testing Methodology

Testing for drugs will be conducted by urinalysis.

1. Initial Test: Initial testing will be performed on the primary sample using the EMIT Immunoassay technique. If the results are negative, no further testing will be required and a report will be provided to the Medical Review Officer (MRO). The MRO is responsible for evaluating, interpreting, and verifying laboratory test results and communicating them to CITY OF WAUKESHA TRANSIT COMMISSION.
2. Confirmation Test: Whenever a positive result is obtained on the initial test, confirmation testing will be automatically performed using the state-of-the-art Gas Chromatography/Mass Spectrometry (GC/MS). Results of confirmation testing will be sent to the Medical Review Officer (MRO).

**Dilute Specimens:** A dilute specimen is a specimen with creatinine and specific gravity values that are lower than expected for human urine. If the test is reported as a **dilute positive**, the test should be treated as a verified positive test result. If the test is reported as a **negative dilute**, CITY OF WAUKESHA TRANSIT COMMISSION will direct the employee to take another test. The retest must not be conducted under direct observation, unless otherwise instructed by the MRO. Since federal regulations give discretion in this manner, CITY OF WAUKESHA TRANSIT COMMISSION has established the policy that retests will be required for negative dilutes. The second test will be considered the test of record. All employees will be treated the same for this purpose. Questions should be directed to the MRO or the Corporate Drug and Alcohol Program Manager.

**Validity Testing:** The laboratory also may conduct validity testing to determine if the specimen has been adulterated, tampered with, or diluted. If the MRO reports a “negative-dilute” test result with creatinine levels greater than or equal to 2mg/dL but equal to or less than 5 mg/dL, the employee will be required to take a second test immediately under direct observation with no advance notice. If the MRO reports a “negative-dilute” test result with creatinine levels greater than 5 mg/dL, the employee will be required to take a second test immediately (not observed) with no advance notice.

Drug Testing Split Specimen: The urine specimen collected for FTA testing will be split and poured into two specimen bottles. This provides the employee or applicant with the option of having an analysis of the split sample performed at a second laboratory that meets the requirements of 49 CFR Part 40. The employee or applicant has 72 hours after being informed by the MRO of a verified positive, adulterated, or substituted test result to request a test of the split sample. All requests for split specimen analysis will be processed by the MRO.

*It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that employees awaiting the result of a split specimen test following a verified positive, adulterated, or substituted test result may not perform safety sensitive duties pending the outcome of the split specimen test. The employee will be placed on an Administrative Suspension pending the result of the split specimen test. Employees placed on an Administrative Suspension must be in a position to be easily contacted by CITY OF WAUKESHA TRANSIT COMMISSION once the result of the split specimen test is reported. Employees who cannot be easily contacted within a reasonable time period will be considered to have abandoned their job and are subject to termination. CITY OF WAUKESHA TRANSIT COMMISSION will seek payment or reimbursement for the cost of the split specimen from the employee, should the employee request testing of the split sample, unless the split specimen analysis fails to confirm the result of the primary specimen analysis.*

## **B. Alcohol Testing Methodology**

Testing for alcohol will be conducted by breath analysis. Alcohol tests will be performed by a breath alcohol technician (BAT) who is trained to proficiency in the operation of the Evidential Breath Testing device being used and in the alcohol testing procedures specified in the Federal regulations.

1. Initial Test: If the result of the initial test is an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to CITY OF WAUKESHA TRANSIT COMMISSION as a negative test.
2. Confirmation Test: If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. The confirmation test will be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the initial test. This delay prevents any accumulation of alcohol in the mouth from leading to an artificially high reading. Even if more than 30 minutes have passed since the screening test result was obtained, you must begin the confirmation test procedures in §40.253, not another screening test. You must note on the "Remarks" line of the ATF the time that elapsed between the two events, and if the confirmation test could not begin within 30 minutes of the screening test, the reason why. The employee is strongly advised not to eat, drink, belch,

or put any object or substance into his or her mouth while awaiting the confirmation test.

3. If the initial test and the confirmation test results are not identical, the confirmation test is deemed to be the final result.
4. The alcohol breath sample is to be taken BEFORE the drug specimen is collected, in such cases that warrant both a drug collection and a breath alcohol sample.

**C. ATTRIBUTING TEST RESULTS TO THE CORRECT COVERED EMPLOYEE (DRUG AND ALCOHOL COLLECTIONS AND TESTING)**

Procedures that ensure that the test results are attributed to the correct covered employee include utilizing a chain of custody to ensure that each specimen is monitored throughout the collection process during both drug and alcohol collection and testing procedures.

**X. CONSEQUENCES OF DRUG USE AND THE MISUSE OF ALCOHOL**

Any covered employee who has a verified positive drug test, an alcohol test result of 0.04 or above, or has refused to submit to a drug or alcohol test (including substitution or adulteration) will be immediately removed from his or her safety sensitive position, provided educational materials, and referred to a substance abuse professional. *It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that positive drug or alcohol tests will also result in termination of employment.*

Any safety sensitive employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 will not perform, nor be permitted to perform, a safety-sensitive function for at least 8 hours following administration of the breath alcohol test, or if the employee was re-tested, the result was less than 0.02. *It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that testing positive for alcohol on a return-to-duty breath alcohol test will result in termination of employment.*

**A. LIFE CONSEQUENCES OF ALCOHOL MISUSE**

*The chronic consumption of alcohol (average of three servings per day of beer, whiskey, or wine) over time may result in the following life consequences:*

**Health:** *decreased sexual functioning, dependency on alcohol, fatal liver disease, increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma, kidney disease, pancreatic dysfunctions, spontaneous abortion and neonatal mortality, ulcers, and birth defects.*

**Work:** *the effects of alcohol misuse on an individual's work include impairment in coordination and judgment, and increased likelihood of having an accident than that of a sober person.*

**Personal Life:** *the effects of alcohol misuse on an individual's personal life include increased exposure to committing homicides, vehicle accidents, family problems including separation and divorce, increased likelihood of committing suicide, and greater exposure to other forms of accidents.*

**Signs and Symptoms:** *dulled mental processes, lack of coordination, odor of alcohol on breath, possible constricted pupils, sleepy or drowsy condition, slowed reaction rate, and slurred speech.*

*When an alcohol problem is suspected, the available methods of intervention include the availability of a crisis response/employee assistance service offered by Substance Abuse Counselors that address family problems as well as substance abuse.*

## **B. EMPLOYEE EDUCATION, TRAINING AND ASSISTANCE PROGRAM**

### **SUPERVISOR TRAINING**

Any supervisory personnel responsible for determining whether an employee must be tested for substance abuse based on Reasonable Cause/Suspicion will be required to complete at least one (1) session (2 hours) of training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug/alcohol use. One 60-minute session will be devoted to indicators of probable alcohol use and one 60-minute session will be devoted to indicators of probable drug use.

*Positions to receive training under this plan are: All Managers, Supervisors, First Line Dispatchers and Foremen. Training will be provided by qualified personnel or processes designated by CITY OF WAUKESHA TRANSIT COMMISSION.*

### **EMPLOYEE EDUCATION**

CITY OF WAUKESHA TRANSIT COMMISSION will provide an education program for its employees, which will include the following:

- Display and distribution of informational material on substance abuse;
- Display and distribution of a community service hot-line telephone number for employee assistance; and
- Display and distribution of CITY OF WAUKESHA TRANSIT COMMISSION's Substance Abuse Plan regarding the use of prohibited drugs and/or alcohol.

- One hour of formal, documented training on the company substance abuse policy and life consequences of drug and alcohol misuse for new hire employees
- Periodic updates and refresher training concerning substance abuse, life consequences and policy adherence.

## **XI. PRESCRIPTION AND OVER THE COUNTER MEDICATIONS**

### **MRO VERIFICATION OF PRESCRIPTIONS**

When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee's prescribing physician before notifying the employer of a medical qualification issue or significant safety risk.

Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements, or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.

*It is CITY OF WAUKESHA TRANSIT COMMISSION's policy that all safety sensitive employees must notify the Company when they are taking prescription or non-prescription medication that may interfere with their ability to perform work safely. Failure to do so will result in disciplinary action up to and including termination of employment.*

*There is only one approved method of notification. Employees must use the Prescription / Non-Prescription notification form to inform the company of all medications used. Falsification of this form in any way is cause for immediate termination.*

*Prescription / Non-Prescription forms must be completed by a Physician, Physician Assistant, Pharmacist, or Registered Nurse. Completed Prescription / Non-Prescription Notification forms must be turned in to the Substance Abuse Program Administrator prior to the beginning of the shift, if the Substance Abuse Program*



*Administrator is not available, forms must be turned in to the appropriate Department Manager, Senior Supervisor, or Foreman on duty.*

*During normal business hours a determination can usually be made immediately as to whether an employee will be allowed to work. If an immediate determination cannot be made, a Medical Review Officer (MRO) will be notified and will make a determination as to an employee's ability to safely work.*

*Employees will not be allowed to clock in until the Substance Abuse Program Administrator or the MRO has made a determination. All normal rules and regulations applying to Miss Outs, No Call No Shows, and Unauthorized Absences shall apply. Employees shall be allowed to use available PTO, EPTO, and vacation until they are cleared to return to work. All normal rules and regulations regarding the scheduling of PTO, EPTO, and vacation may apply.*

## **XII. RECORD KEEPING**

### **DRUGS & ALCOHOL**

**Records will be maintained as detailed in 49 CFR Part 655, as revised.**

**A. RECORDS MAINTAINED FOR ONE (1) YEAR:**

1. *Records of Verified Negative Drug Test Results:*
2. *CITY OF WAUKESHA TRANSIT COMMISSION's copy of custody and control form.*

**B. RECORDS MAINTAINED FOR TWO (2) YEARS:**

1. *Records Related to the Collection Process:*
2. *Education and Training Records:*

**C. RECORDS MAINTAINED FOR THREE (3) YEARS**

*Information from previous employers concerning drug and alcohol test results*

**D. RECORDS MAINTAINED FOR FIVE (5) YEARS:**

1. *Records of Covered Employee Verified Positive Drug Test Results:*
2. *Covered Employee Referrals to Substance Abuse Professional for Return To Duty and Follow Up:*
3. *Annual MIS Reports.*

**E. REQUIREMENTS FOR RECORDS AND SPECIMEN STORAGE  
BY LAB, MRO, AND CITY OF WAUKESHA TRANSIT  
COMMISSION.**

Records are maintained for program administration and test results of individuals for whom CITY OF WAUKESHA TRANSIT COMMISSION has testing responsibility. Upon completion of the collection process, the specimen is to be placed in secure storage until dispatched to the laboratory. The MRO is to maintain all necessary records and send test result reports to CITY OF WAUKESHA TRANSIT COMMISSION Substance Abuse Program Administrator (DER), who maintains records in a secure location with controlled access. All negative test results will be maintained for a period of no less than one year. All positive test results will be maintained for a period of no less than five years.

**XII. IDENTITY OF CONTACT PERSONS**

**A. Corporate Drug and Alcohol Program Manager**

Name: Brian Engelking  
Title: Transit Manager  
Address: 2311 Badger Drive  
Waukesha, WI 53188  
262-524-3634: OFFICE  
262-719-9599: CELLULAR

**B. Primary Drug and Alcohol Program Manager (DER)**

Name: Donald G Jans  
Title: Compliance Specialist  
Address: 2311 Badger Drive  
Waukesha, WI 53188  
262-524-3633: OFFICE  
414-550-0422: CELLULAR

**C. Alternate Drug and Alcohol Program Manager (DER)**

Name: Kari Bloedow  
Title: Finance Director  
Address: 2311 Badger Drive  
Waukesha, WI 53188  
262-524-6664: OFFICE  
262-894-1775: CELLULAR

**D. Second Alternate Drug and Alcohol Program Manager**

Name: Michael Warren  
Title: General Manager  
Address: 2311 Badger Drive  
Waukesha, WI 53188  
262-524-6662: OFFICE  
414-292-5267: CELLULAR

**E. Substance Abuse Program Medical Review Officer**

Company Name: Aurora Health Center

MRO: Kevin B Edwards, MD, MRO

Address: 19525 Janacek Road  
Brookfield, WI 53045

Office: 262-957-1967

**F. Testing Laboratory**

Name: Quest Diagnostics  
Address: 1777 Montreal Circle  
Tucker, GA 30084

Telephone: (866) 697-8378

**G. Employee Assistance Program**

FEI (Formerly Symmetry and Impact)  
648 North Plankington Avenue, Suite 425  
Milwaukee, WI 53203  
Randall Kratz, MS, LCSW, LPC  
Direct: 414-359-6631  
Email: rkratz@feinet.com  
Customer Service (Employee Assistance): 1-800-236-7905

**Appendix A – Safety Sensitive Employees**

**The following positions are considered to be safety sensitive:**

- Vehicle Operators

- Armed Security (CITY OF WAUKESHA TRANSIT COMMISSION Employees)
- Dispatchers
- Mechanics and other Maintenance Personnel
- General Manager

## Appendix B - Definitions

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

**Alcohol Use** – The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol.

**Breath Alcohol Technician** – A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

**Cancelled Test** – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

**Collector** – A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the Custody and Control form.

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

**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.

- 1) Inclusion: Damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven.
- 2) Exclusions:
  - a. Damage that can be remedied temporarily at the scene of the accident without special parts or tools.
  - b. Tire disablement without other damage even if no spare tire is available.
  - c. Headlamp or tail light damage.
  - d. Damage to turn signals, horn, or windshield wipers, which make the vehicle inoperable.

**DOT, the Department, DOT Agency** – All DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any designee of a DOT agency. For the purposes of testing under 49 CFR Part 40, the USCG (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.

**Evidential Breath Testing (EBT) Device** – The NHTSA conforming products list (CPL) for evidential devices are the only devices you may use to conduct alcohol confirmation tests under 49 CFR Part 40.

**FTA** – The Federal Transit Administration, an agency of the U.S. Department of Transportation.

**HHS** – The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

**Mass Transit Vehicle** – A vehicle used for mass transportation or for ancillary services.

**Medical Review Officer (MRO)** – A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

**Public Transportation Vehicle** – a vehicle used to transport the public or one used for ancillary services.

**Split Specimen** – In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted specimen.

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

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

**Verified Test** – A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

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**Appendix C**

*CITY OF WAUKESHA TRANSIT COMMISSION AGREEMENT WITH RESPECT  
TO SUBSTANCE ABUSE TESTING*

I, the undersigned employee of CITY OF WAUKESHA TRANSIT COMMISSION hereby certify that I have been furnished with a copy of CITY OF WAUKESHA TRANSIT COMMISSION's Substance Abuse Policy for Safety-Sensitive Employees, including its Employee Assistance Program (EAP) and that I have had training on the same. I understand that should I decide to use the services of the Employee Assistance Program (EAP) for a substance abuse problem, that the EAP is required to notify CITY OF WAUKESHA TRANSIT COMMISSION's Substance Abuse Program Administrator in order to protect my employment. I further certify that I have been provided with informational material, education and training on the dangers and problems of drug and/or alcohol use.

Executed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Print Name