

RESOLUTION OF THE
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
of the 23rd NAVAJO NATION COUNCIL—Third Year, 2017
Navajo Nation Council

AN ACTION

RELATING TO HEALTH EDUCATION AND HUMAN SERVICES COMMITTEE,
APPROVING THE REVISION OF THE NAVAJO TRANSPORTATION SYSTEM
SUBSTANCE ABUSE POLICY

BE IT ENACTED:

SECTION ONE. AUTHORITY

The Health, Education and Human Services Committee has oversight over the Division of General Services and the Navajo Transportation System (NTS) which is within that Division. 2 N.N.C. § 401(C) (1).

SECTION TWO. FINDINGS


- A. The Health Education and Human Services Committee approved the Navajo Transportation System's Substance Abuse Policy in 2016 through Resolution HEHSC-23-16. See **Exhibit "A"**.
- B. The Navajo Transit System, through the Division of General Services has submitted a revised Substance Abuse Policy for approval. See **Exhibit "B"**.
- C. The revised Substance Abuse Policy is a product of collaborative work between the NTS and the New Mexico Department of Transportation and that Department's Drug and Alcohol compliance consultant, Precision Compliance Inc. and meets all the current requirements under 49 CFR Part 40 and 49 CFR part 655 as required under the NTS's grant agreement.
- D. The Health Education and Human Services Committee finds it in the best interest of the Navajo Nation to approve the revised Navajo Transportation System Substance Abuse Policy as submitted and found at **Exhibit "B"**.

SECTION THREE. APPROVAL

The Health Education and Humans Services Committee of the Navajo Nation Council hereby approves the revised Navajo Transportation System Substance Abuse Policy as submitted and found at **Exhibit "B"**.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Health, Education and Human Services Committee of the 23rd Navajo Nation Council at a duly called meeting at Window Rock, (Navajo Nation) Arizona, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, this 10th day of July, 2017.



Norman M. Begay, Vice Chairperson
Health, Education and Human Services Committee
Of the 23rd Navajo Nation Council

Motion: Honorable Amber K. Crotty
Second: Honorable Steven Begay



S164 Review Doc # 8049

**Approval of revision to NTS
Substance Abuse Policy**

Document:

Current approved Policy



SUBSTANCE ABUSE POLICY
and
FTA STANDARD OPERATING
PROCEDURES

HEHSC Approval: Sep. 21, 2016

RESOLUTION OF THE
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
Of the 23rd Navajo Nation Council--Second Year 2016

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE;
APPROVING THE NAVAJO TRANSIT SYSTEM'S SUBSTANCE ABUSE POLICY AND
STANDARD OPERATING PROCEDURES

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. 2 N.N.C. § 400(A).
- B. The HEHSC serves as the oversight committee for the Division of General Services and employment, the Navajo Transit System (NTS) is within the Division of General Services. 2 N.N.C. § 401(C)(1).

SECTION TWO. FINDINGS

- A. The NTS is seeking the approval of internal Substance Abuse Policy.
- B. The Substance Abuse Policy to be approved is due to a condition of a grant received by NTS.
- C. Resolution CD-111-95, approved legislation for Drug and Alcohol Testing of Navajo Nation employees performing safety-sensitive functions (Dec. 21, 1995).
- D. The NTS grant agreement lists an annual Site Visit Report.
- E. The last Site Visit Report cited the NTS for a deficiency for the NTS's lack of current approved Substance Abuse Policy.
- F. The Navajo Nation finds it is in the best interest of the Navajo People to approve the Navajo Transit System's Substance Abuse Policy and Standard Operating Procedures.

RESOLUTION OF THE
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
Of the 23rd Navajo Nation Council--Second Year 2016

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE;
APPROVING THE NAVAJO TRANSIT SYSTEM'S SUBSTANCE ABUSE POLICY AND
STANDARD OPERATING PROCEDURES

BE IT ENACTED:

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- A. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. 2 N.N.C. § 400(A).
- B. The HEHSC serves as the oversight committee for the Division of General Services and employment, the Navajo Transit System (NTS) is within the Division of General Services. 2 N.N.C. § 401(C)(1).

SECTION TWO. FINDINGS

- A. The NTS is seeking the approval of internal Substance Abuse Policy.
- B. The Substance Abuse Policy to be approved is due to a condition of a grant received by NTS.
- C. Resolution CD-111-95, approved legislation for Drug and Alcohol Testing of Navajo Nation employees performing safety-sensitive functions (Dec. 21, 1995).
- D. The NTS grant agreement lists an annual Site Visit Report.
- E. The last Site Visit Report cited the NTS for a deficiency for the NTS's lack of current approved Substance Abuse Policy.
- F. The Navajo Nation finds it is in the best interest of the Navajo People to approve the Navajo Transit System's Substance Abuse Policy and Standard Operating Procedures.

**SECTION THREE. APPROVING THE NAVAJO TRANSIT SYSTEM'S SUBSTANCE
ABUSE POLICY AND STANDARD OPERATING PROCEDURES**

The Navajo Nation hereby approves the updated Substance Abuse Policy and Standard Operating Procedures for the Navajo Transit System, attached hereto as Exhibit A and B.

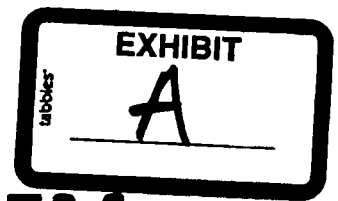
CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Health, Education and Human Services Committee of the 23rd Navajo Nation Council at duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 21st day of September, 2016.



Jonathan L. Hale, Chairperson
Health, Education and Human Services Committee
Of the 23rd Navajo Nation Council

Motion : Honorable Nathaniel Brown
Second : Honorable Peterson S. Yazzie
Chairperson not voting



NAVAJO TRANSIT SYSTEM

SUBSTANCE ABUSE POLICY





NAVAJO TRANSIT SYSTEM

Substance Abuse Policy

I. POLICY

Navajo Transit System is dedicated to providing safe, dependable and economical transportation services to our transit system passengers. The Navajo Transit System's employees are our most valuable resource and it is our goal to provide a safe, satisfying working environment, which promotes personal opportunities for growth. In meeting this goal it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties. .

The Navajo Transit System's Substance Abuse Policy was approved and adopted by the Health, Education, Human Services Committee (HEHSC) of the Navajo Nation Council as shown in Attachment C with a copy of the signed adoption by the HEHSC and is on file at the Navajo Transit System. Anytime this policy is amended or updated due to changes in Federal regulations in the future, the policy will contain the date, proof of adoption of the amended policy by Navajo Transit System's oversight committee and the date the amended policy, or portion thereof, became effective.

II. PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, which mandates urine drug testing and breath alcohol testing for safety-sensitive positions and which prohibit performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, and the Omnibus Act from 1991 as amended, which sets standards for the collection and testing of urine and breath specimens. Copies of the Federal Regulations are available upon request. Pursuant to its funding agreements the Navajo Transit System is required by federal law to comply with these regulations. This policy incorporates those regulations for safety-sensitive employees and others when so noted.

III. APPLICABILITY

This policy applies to all Navajo Transit System employees; paid part-time employees; contract employees and contractors when performing any transit-related safety-sensitive

duties or when they are on transit property. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contract employees, who come onto transit's premise to conduct transit business, are governed by this policy while on the premises and will not be permitted to conduct transit business if found to be in violation of this policy.

All positions at Navajo Transit System were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. A full listing of positions which were determined to be safety-sensitive are listed in Attachment A.

Navajo Transit System is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including dismissal.

IV. DEFINITIONS

"Alcohol" Any beverage containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing safety-sensitive transit duties, is prohibited.

"Illegally Used Controlled Substances or Drugs" Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

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

"Medical Review Officer (MRO)" A licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information. The MRO shall meet the requirements and follow all procedures set forth in 49 CFR Part 40.

"Prohibited Conduct" addressed by this policy include the following:

- a. **Manufacture, Trafficking, Possession, and Use:** Navajo Transit System employees are prohibited from engaging in the unlawful manufacture,

distribution, dispensing, possession, or use of prohibited substances on transit authority premises, in transit vehicles, in uniform, or while on transit authority business.

- b. **Alcohol Use:** No safety-sensitive employee shall use alcohol while on duty, in uniform, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty, or during the hours that they are on-call. No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.02 or greater. An employee with an alcohol test result of 0.04 or greater is considered to have a positive alcohol test result and is in violation of this policy.
- c. **Illegal Use of Legal Drugs:** The misuse or abuse of legal drugs while performing transit business is prohibited. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work-related safety-sensitive duties.

“Prohibited Substances” addressed by this policy include the following:

- a. **Illegally Used Controlled Substances or Drugs**
- b. **Alcohol**

“Revenue Service Vehicle” The vehicles used to provide revenue service for passengers.

“Safety-Sensitive Function” Any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), control, dispatch and maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee or volunteer who perform duties requiring a CDL and/or performs a safety-sensitive function and receives remuneration in excess of their actual expenses. Supervisors performing any of the above described functions are considered to be safety-sensitive employees.

“Substance Abuse Professional (SAP)” A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist, or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission. The SAP must meet the requirements and follow the procedures and responsibilities set forth in 49 CFR Part 40 subpart O.

V. PROHIBITED SUBSTANCE TESTING

A. TYPES OF DRUG & ALCOHOL TESTING EVENTS

i. PRE-EMPLOYMENT TESTING

a. Drug Testing

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment into a safety-sensitive position or before transferring into a safety-sensitive position. Receipt by Navajo Transit System of a negative drug test result is required prior to performing safety-sensitive duties. If the test is cancelled the applicant must retake and pass a drug test before performing safety-sensitive duties.

If a safety-sensitive employee returns to work and has been off for 90 days or more and has not remained in the random pool, he/she must pass a Pre-Employment drug test before resuming safety-sensitive duties.

When a covered employee or applicant has previously failed a DOT pre-employment drug test, (or any other DOT-regulated drug or alcohol test or refused to be tested in the prior 2 years), the employee must present to the employer proof of successfully having completed a referral, evaluation and treatment plan as described in Sec. 655.41(a)(2) and 655.62 to be considered for the hiring process.

b. Alcohol Testing

If Navajo Transit System chooses to conduct pre-employment alcohol testing, the employer will comply with Section 655.42. The agency will not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.02.

c. Long-Term Disability

If otherwise qualified, an individual with permanent or long term disabilities that directly render them unable to provide an adequate urine specimen will be able to perform safety-sensitive duties despite their inability to provide urine during a pre-employment test. The MRO will determine long term inability to provide urine by medical examination and consultation with the employee's physician.

ii. REASONABLE SUSPICION TESTING

All safety-sensitive employees may be subject to fitness for duty evaluation and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral must be made by a supervisor or agency official, trained in the signs and symptoms of drug and alcohol misuse, who has personally observed and documented objective facts and circumstances which are consistent with the short-term effects of substance abuse and alcohol misuse.

The criteria for a reasonable suspicion test must be based on contemporaneous, articulable, observations concerning the appearance, behavior, and speech or body odor of the safety-sensitive employee. A supervisor or trained official making the decision to conduct a reasonable suspicion test must have had the appropriate training as defined in 49 CFR Part 655.14 (b)(2) and may not act as the Screening Test Technicians (STT) or Evidential Breath Testing (BAT) for that test.

Reasonable suspicion alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties; and the observations leading to that testing must be made during, just preceding, or just after the employee performs covered duties.

Once the decision to reasonable suspicion test is made, the employee will be removed from safety-sensitive duties until the test results are received. The employee will be escorted to the collection site by the supervisor or another transit employee.

iii. POST-ACCIDENT TESTING

Post-accident testing of safety-sensitive employees involved in an accident/incident with Navajo Transit System's vehicle (regardless of whether or not the vehicle is in revenue service) will be subject to post-accident drug and alcohol testing. Post-accident testing is mandatory for accidents where there is loss of life. Testing is also required for nonfatal accidents if, 1) any individual(s) involved in the accident receives immediate medical treatment away from the scene of the accident, or 2) one or more vehicles involved in the accident incurs 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) requiring transportation from the scene by tow truck or other vehicle; or 3) if the public transportation vehicle is a rail vehicle or vessel that is removed from revenue service.

When there is loss of human life, each surviving safety-sensitive employee on duty in the mass transit vehicle at the time of the accident must be tested. Safety-sensitive employees not on the vehicle (e.g. maintenance personnel), whose performance could have contributed to the accident (as determined by Navajo Transit System using the best information available at the time of the accident) must be tested.

Safety-sensitive employees on duty in the public transportation vehicle at the time of a nonfatal accident (fitting the criteria above) must be tested unless their behavior can be completely discounted as a contributing factor to the accident. Other safety-sensitive employees whose performance could have contributed to the accident, as determined by Navajo Transit System, using the best information available at the time of the decision, shall also be tested after a nonfatal accident.

Following an accident, safety-sensitive employees will be tested as soon as possible, but not to exceed 32 hours for drug testing. If alcohol testing is not done within 2 hours of the accident, the reason for not testing must be documented in a report and attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident.

the reasons for not testing must also be updated on the written report. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following an accident or until they undergo a post-accident alcohol test.

The results of a blood, urine, or breath test conducted by Federal, State, or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results can be obtained by the employer.

The requirements to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means Navajo Transit System knows the location of the safety-sensitive employee. Any safety-sensitive employee who leaves the scene of the accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test and shall face disciplinary action up to and including termination.

iv. RANDOM TESTING

All safety-sensitive employees shall be subject to random, unannounced testing. These percentages are subject to annual review by the FTA. The testing rate performed by Navajo Transit System will always meet the minimum rate set by 49 CFR Part 655.

The selection of safety-sensitive employees, for random drug and alcohol testing, shall be made using a scientifically valid method such as a random number table or a computer-based random number generator that ensures each safety-sensitive employee that they will have an equal chance of being selected each time selections are made. Random tests will be unannounced and reasonably spread throughout all days, hours and shifts throughout the year when Navajo Transit System performs safety-sensitive functions. Employees are to proceed to the testing site immediately upon notification of a random test.

There is no discretion on the part of management or operations in the selection and notification of individuals for testing.

Random alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties.

B. TESTING PROCEDURES

All urine collections and alcohol testing procedures will be performed to the standards defined 49 CFR Part 40. An overview of the procedures are available in Attachment B to this policy. A copy of 49 CFR Part 40 is available upon request from Drug & Alcohol Program Administrator

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant and as required by Federal regulations. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability, using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS).

The employee shall be provided with written instructions prior to specimen collection for drug testing. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen, called an immunoassay test, will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test or a Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

In instances where there is a reason to believe an employee is abusing a substance other than the five drugs listed above, Navajo Transit System reserves the right to request a separate sample, under Navajo Transit System's authority using standard laboratory testing protocols, and to test for additional drugs.

The integrity of the alcohol testing process is insured by picture identification of the employee, use of a National Highway Traffic Safety Administration (NHTSA) approved EBT that displays and prints unique sequential numbers and is capable of producing 3 copies of the test result. The test is administered by a certified BAT who is "trained to proficiency" in the operation of the EBT being used. The BAT completes a Federal Breath Alcohol Testing form and insures that it is signed by the donor.

If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02 or greater, but less than 0.04 will be immediately removed from his/her safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but not less than 8 hours or until a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety-sensitive employees. Alcohol testing will only be done just prior to, during, or just after a safety-sensitive employee's performance of safety-sensitive duties.

STT may be used to perform alcohol screening tests (saliva or breath); however, an EBT operated by a BAT must be used for confirmation of an alcohol test. Neither the STT nor BAT may act as a collector if they are a direct supervisor of the employee.

Laboratory results must be reviewed by a qualified MRO. The purpose of this review is to verify and validate test results. The laboratory shall report all results to the MRO in a confidential manner.

C. COMPLIANCE WITH TESTING REQUIREMENTS

All safety-sensitive employees will be subject to urine drug testing anytime while on duty and alcohol testing only just prior, during, and just after the performance of safety-sensitive duties.

Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a SAP. A refusal to test will be treated the same as a positive test result.

Any safety-sensitive employee who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection.

i. REFUSAL TO TEST

Refusals can include a variety of behaviors, including:

- Failure to appear in a timely fashion (except for pre-employment tests).
- Failure to remain until the testing process is complete.
- Failure to attempt to provide a breath or urine specimen.
- Failure to provide a sufficient quantity of urine or breath without a valid medical explanation.
- Failure to undergo a medical evaluation as required by the MRO or Designated Employer Representative (DER).
- Failure to cooperate with any part of the testing process for drug and alcohol testing.
- Failure to permit monitoring or observation.
- Failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- Possess or wearing a prosthetic or other device used to tamper with the testing process.
- Failure to take a second test as directed by the collector or employer.
- Admitting the adulteration or substitution of a specimen to the collector or MRO.
- The MRO's verification of a test as adulterated or substituted.
- Refusal to sign the certification at Step 2 of the Breath Alcohol Testing Form (ATF).

ii. OBSERVED COLLECTIONS

The observation will be done by a person of the same gender in the following circumstances:

- All return to duty tests (second chance policy)
- All follow up tests (second chance policy)

- Any time the specimen collected is out of temperature range (90°-100°F)
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with
- Anytime a collector observes materials brought to the collection site or employee's conduct clearly indicates an attempt to tamper with a specimen
- Anytime the employee is directed to provide another specimen because the Laboratory reported to the MRO that the original specimen was invalid without a valid medical reason
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted but had to be cancelled due to the test of the split specimen could not be performed

D. EMPLOYEE REQUESTED TESTING

Any safety-sensitive employee, who has been notified by the MRO of a verified positive drug test and/or refusal to test due to adulteration or substitution, has 72 hours from the time of notification to request a test of the split specimen. This test must be conducted at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The employee is responsible for all costs for such testing unless the result of the split sample test invalidates the result of the original test. However, if the employee is unable or refuses to pay for the testing, Navajo Transit System will pay and ensure that the testing is done in a timely manner. Navajo Transit System may require reimbursement for the cost from the employee. The method of collecting, storing, and testing of the split sample will be consistent with the procedures set forth in 49 CFR Part 40. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.

E. CONSEQUENCES OF A FAILED TEST

Safety-sensitive employees who have a verified positive drug or confirmed alcohol or refuses to submit to a required test shall be removed from safety-sensitive duty immediately; informed of educational and rehabilitation programs available; referred to a SAP; subject to disciplinary action, up to and including termination. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40.

F. NEGATIVE DILUTE DRUG TEST RESULT

All employees/applicants/ with a dilute negative test result will be required to retest. The second test result will stand as the test of record and no additional testing will be required unless directed to do so by the MRO. A dilute positive result is treated the same as any other positive drug test result.

VI. TREATMENT REQUIREMENTS

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Navajo Transit System's requirements for treatment, after-care, or return-to-duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Eligible employees will be allowed to take accumulated sick leave and/or vacation leave to participate in the prescribed rehabilitation program.

VII. NOTIFICATION OF CRIMINAL DRUG CONVICTION

All employees are required to notify the transit system of any criminal drug conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

VIII. TRAINING FOR SAFETY-SENSITIVE EMPLOYEES & SUPERVISORS

All safety-sensitive employees shall receive a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and indicators of prohibited drug use.

Supervisors responsible for making the decision to generate a reasonable suspicion test must receive a minimum of 60 minutes of training on drug and 60 minutes of training on alcohol information regarding the physical, behavioral, speech and performance indicators of probable drug and alcohol misuse.

IX. EMPLOYEE ACCESS TO RECORDS

Drug testing records must be kept in a secure location with controlled access. Drug and alcohol test results may be released only under the following circumstances:

- Employer shall release information or copies of records regarding an employee's test results to a third party only as directed by specific, written instruction of the employee.
- Employer may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.

- Upon written request, employer must promptly provide any employee with any records relating to his/her test, including calibration records and laboratory certification records.
- Employer must release information to the National Transportation Safety Board (NTSB) about any post-accident test performed for an accident under NTSB investigation.
- Employer shall make available copies of all results of employer testing programs, and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed guideway systems.

SYSTEM CONTACTS

Drug and Alcohol Program Manager (DAPM) / (DER) Designated Employer Representative):

Name: Harrison Smith
Title: Delegated Department Manager III
Address: PO Box 1330
Window Rock AZ 86515
Telephone: (928) 729-4115

Name: Florinda Lynch
Title: Senior Accountant
Address: PO Box 1330
Window Rock AZ 86515
Telephone: (928) 729-4108

Medical Review Officer (MRO): Services Will Be Provided by:

Name: Dr. Stephen Kracht / eScreen, Inc.
Address: PO Box 25902
Overland Park, KS 66255-590
Telephone:

Substance Abuse Professional (SAP):

Name: Richard Vinnay, SAP
Address:
Telephone:

DHHS Certified Laboratory:

Name: Alere Toxicology Services Inc.
Address: 450 Southlake Blvd
Richmond, VA 23236
Telephone:

Collection Site;

Name: RMCHCS Occupational Health Services
Address: 2111 College Drive Gallup NM 87301
Telephone: (505) 863-1866
Contact:

The toll-free number for
Substance Abuse
Assistance is:

1-800-662-HELP (4357)

EMPLOYEE RECEIPT OF
SUBSTANCE ABUSE POLICY

Return this completed form to your immediate supervisor

Print Employee Name: _____

I have received and will read Navajo Transit System's Substance Abuse Policy. I understand that I will be held responsible for the content of the policy and I agree to abide by Substance Abuse policy. If I need any clarification or if I have any questions regarding the substance of the policy, I will address them with the Navajo Transit System's program administrator.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

This policy adheres to the Federal Transit Administration's mandated regulations for drug and alcohol testing.

Employee Signature: _____

Date Signed: _____

Attachment A

Safety-Sensitive Positions at Navajo Transit System

All positions at Navajo Transit System were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. The following positions were determined to be safety-sensitive:

Motor Coach Drivers (includes temporary personnel)

Senior Equipment Mechanic (includes temporary personnel)

Equipment Mechanic (includes temporary personnel)

Fleet Coordinator (includes temporary personnel)

Fleet Service Manager (includes temporary personnel)

Senior Auto Parts Technician (includes temporary personnel)

Department Manager III (includes temporary personnel)

Program Supervisor II (includes temporary personnel)

Transit Dispatcher (includes temporary personnel)

Safety Officer (includes temporary personnel)

Automotive Service Writer (includes temporary personnel)

Attachment B

Urine Collection and Alcohol Testing Procedures

Urine collection for drug testing shall be done at a location that provides:

- a privacy enclosure for urination
- a toilet receptacle large enough to contain a complete void
- a source for washing hands
- a suitable surface for writing

The collection site personnel shall be trained in the proper procedures for preparing the collection site, collecting the urine specimen, sealing and preparing the specimen for shipment and completing the custody and control form as required in 49 CFR Part 40.

A Federal drug testing custody and control form will be used for the collection unless the test is being performed under the authority of the Transit Agency and does not meet the FTA guidelines.

The collection room shall be inspected by the collector before and after each specimen collection for removal of any unauthorized persons and materials that could be used to adulterate the specimen. The collection site will be secure to prevent unauthorized access during the collection process.

The collector will verify the employee's identity by photo identification or by a Navajo Transit System representative. The collection will not proceed if identity is not verified. The collection site will notify the employer if the employee fails to report or arrives more than 30 minutes late for the appointment.

The employee will be requested to check belongings (purses & briefcases) and remove any unnecessary outer clothing (sweaters, jackets, vests, etc.) The employee may retain their wallet.

The employee will be directed to wash their hands.

The collector will unwrap the collection cup or specimen bottle in front of the employee and direct them to the privacy enclosure. The collector remains outside the enclosure. The employee is instructed to provide at least 45 ml (about 2 ounces) of urine.

If the employee is unable to provide at least 45 ml of urine they will be given up to 40 ounces (measured) of fluids and remain at the collection site for up to 3 hours in an attempt to provide the specimen. If the required amount is provided, the specimen is forwarded to the laboratory. If the employee is unable to provide an adequate specimen within 3 hours, the insufficient specimen is discarded, testing discontinued and the employer notified. The MRO/DER shall refer the employee for a medical evaluation to determine whether the employee's inability to provide a

specimen is genuine or constitutes a refusal to submit to a drug test. The examining physician shall provide the MRO a brief statement setting forth his/her conclusion and the basis for it. Upon receipt of the statement the MRO shall report his/her conclusions to the employer in writing. If the MRO determines there is no medical explanation for the inability to provide an adequate specimen, this will be considered a refusal to test.

Within four (4) minutes of receiving the specimen from the employee, the collector will record the temperature of the specimen on the custody and control form. The temperature must be between 90°-100°F. Any specimen temperature out of that range requires a second specimen to be collected immediately under direct observation by a collector of the same gender. The incident is noted in the remarks section of the custody and control form and both specimens are sent to the laboratory, unless the donor refuses to submit to a directly observed test; which in this case the first specimen will be discarded and the test ruled as a refusal. The collector shall also visually examine the specimen for any unusual color or sediment, and note anything unusual on the custody and control form.

If the employee refuses to cooperate with the collection process the collector notifies the employer immediately and documents the non-cooperation on the custody and control form.

The collection site person, in the presence of the donor, pours the urine from the collection cup into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.

Both bottles must be sealed and labeled in the presence of the donor. The labels must be printed with the same specimen identification number as the custody and control form. The collector dates and the donor initials the seals on the bottles verifying the specimen is his/hers.

The custody and control form is completed. The donor and collector and the donor must sign the appropriate certification statements on the form regarding authenticity of the specimen and information provided and the integrity of the collection process. Each transfer of custody must be noted on the chain of custody portion of the urine custody and control form. Every effort should be made to minimize the number of persons handling the specimen.

The specimen must be stored in a secured location until transport to the laboratory. Both the primary specimen and the split specimen shall be sealed in a single shipping container, together with the appropriate pages of the custody and control form

Observed Collections

Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided.

In the following circumstances the collector must observe the collection.

- The employee has presented a urine sample that falls outside the normal temperature range (90°-100°F).
- The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.)
- Previous sample is invalid and there is no medical reason: the collector is informed by the employer or MRO.
- The employee has previously violated the FTA/DOT regulations and the testing that is being performed is a return to duty or follow-up test.

The direct observation must be by a collector (or observer) of the same gender as the employee being tested. The observed collection procedure must adhere to the requirements of 49 CFR part 40 as amended. This requires the employee to raise his or her shirt, blouse or dress / skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to midthigh and show the observer, by turning around, that the employee does not have a prosthetic device.

ALCOHOL TESTING PROCEDURES

Alcohol testing shall be done at a location that provides:

- Privacy to the individual being tested
- Security with no unauthorized access at any time to EBT
- BAT conducting only one test at a time who must not leave the testing site while the preparations for testing or the test itself are in progress.

Upon arrival at the testing site the employee must provide positive identification in the form of a photo identification or identification by The Transit Agency Supervisor.

The BAT will explain the testing procedures to the employee.

The BAT and the employee will complete, date and sign Step #1 and Step #2 of the alcohol testing form indicating the employee is present and providing a breath specimen. Refusal by the employee to sign Step #2 of the alcohol testing form will be noted by the BAT in the remarks section and is considered a refusal to test.

Screening Test

Employee is informed that testing will begin with a screening test. The BAT will open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT.

The employee will be instructed to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. The BAT will show the employee the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required. The BAT and the employee will finish filling out the alcohol testing form. The employee may return to their safety-sensitive position and the test will be reported to the employer as a negative.

Note: Alcohol screens may be performed by certified Screening Test Technicians (STT) using alternative alcohol screening devices approved by the Department of Transportation. The alternative methods may test either breath or saliva. If the screening tests results are 0.02 or greater a confirmation test by a BAT, using an evidential breath testing device, must be performed.

Confirmation Test

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must 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.

The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will also instruct the employee not to belch to the extent possible while awaiting the confirmation test. The BAT will inform the employee that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an airblank on the EBT. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second airblank reading is greater than 0.00, the EBT must not be used to conduct the test.

The confirmation test is conducted using the same procedures as the screening test. A new mouthpiece will be used.

If the initial and confirmatory test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be cancelled, and the EBT removed from service.

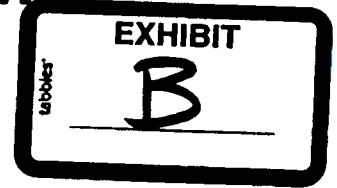
The BAT will sign and date the form. The employee will sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive duties or operate a motor vehicle if the results are 0.02 or greater. Refusal by the employee to sign the certification statement is not considered a "refusal to test", but it will be noted in the remarks section by the BAT.

The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamperproof tape (unless the EBT prints the results directly on the form).

Reporting

The BAT will transmit all results to the Designated Employer Representative in a confidential manner. In the event an individual must be removed from safety-sensitive duties as a result of the alcohol test, the BAT will notify the Designated Employer Representative immediately.

NAVAJO TRANSIT SYSTEM



STANDARD OPERATING PROCEDURES (SOP)



FTA PROCEDURES FOR
WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

Standard Operating Procedures Document Instructions.

This document is meant to define the Standard Operating Procedures used by *Navajo Transit* to ensure continuity and compliance of the FTA Drug and Alcohol Testing Program. The purpose is to have a working document that can help train a new Drug and Alcohol Program Manager or an Assistant and it can also be used as a reference to respond to unusual events that may occur in the management of the program.

Definitions:

ATF = Alcohol Testing Form

BAT = Breath Alcohol Technician

CCF = Custody and Control Form.

DER = Designated Employer Representative and is used interchangeable with Drug and Alcohol Program Manager (DAPM) throughout the document.

MRO = Medical Review Officer

SAP = qualified Substance Abuse Professional

1. Enter the name of your transit system in the designated area *Navajo Transit System*
2. Review any highlighted area and fill in the proper information.
3. Edit the Collection Site Request Form (page 6) putting in the name/address of your collection site.
4. Be sure MRO knows your preferred method to transmit the results to the Transit System.
5. Page 2: Add your specific hiring procedures
6. Page 13 number 8: It is up to the each transit system to decide if an employee can return to duty after having participated in a post accident test. In the regulations there is no presumption of drug or alcohol use in the event of an accident unless there is reasonable suspicion.
7. Page 15: Insert your process of notifying an employee to report to the collection site because he/she has been selected to have a random test.

****All transit systems should create a post-accident kit which is available for supervisors all hours of operation. This kit should contain the following:**

- Post accident documentation form
- Federal Custody and Control Form (non-Federal form if you test for other circumstances other than the FTA standards)
- Contact information for your collection site and any other people that must be contacted in the event of an accident.
- Supervisor instruction sheet

Supervisors should be trained on their response in the event of an accident.

PRE-EMPLOYMENT PROCEDURES FOR DRUG TESTING

Pre-Employment testing is done in three situations

1. When a person is seeking employment with Navajo Transit System for a safety-sensitive position.
2. When a current Navajo Transit System employee who holds a non-safety-sensitive position is applying or bidding for transfer to a safety-sensitive position.
3. When a current safety sensitive employee has been off duty for 90 days or more **and** has been removed from the random testing pool.

The following procedures are to be followed when testing a new applicant/transfer.

1. The individual applies for a position by filling out the employment application including the **Drug Testing Acknowledgment Form and Previous Employer Drug and Alcohol Testing Release Form. The Previous Employer Release form must be forwarded to previous employers that had a Federal drug testing program.**
2. The individual fulfills Navajo Transit System pre-employment process and is selected after an interview.
3. The applicant is told that participating in the federal drug testing program and passing a pre-employment drug test is a condition of employment and is given a **Collection Site Request Form** and asked to report to a collection site and complete a urine test within 2 hours of the notification. If the applicant wants testing procedure information, it should be readily available.
4. The Drug Program Administrator will keep the signed **Drug Testing Acknowledgment Form** and the signed **Previous Employer Drug and Alcohol Testing Release Form** for each applicant in a secured manner.
5. If the drug test comes back as "negative" and the **Previous Employer Drug and Alcohol Testing Release Form** has been received without any positive drug or alcohol testing history, the applicant may be hired (or begin safety sensitive duties). If the drug test comes back "positive", the applicant cannot be hired for the position at that time. An SAP referral must be sent to the applicant as soon as possible.
6. If the **Previous Employer Drug and Alcohol Testing Release Form** is returned and there has been a positive test result in the past 24 months, the DER must ask the applicant for paperwork showing that the applicant has completed an SAP evaluation, if a Return To Duty test has been done, and Follow Up testing recommended. If the applicant is hired, it is up to Navajo Transit System to make sure the applicant completed an SAP evaluation and recommended treatment and passed a Return To Duty test before performing safety-sensitive duties. Additionally it is the responsibility of Navajo Transit System to make sure the recommended Follow Up testing is continued and completed.

The following procedures are to be followed when Pre-Employment testing a current employee in a non safety-sensitive position that is applying for transfer to a safety-sensitive position.

1. The employee bids or applies for a safety-sensitive position.
2. The employee(s) applying for the opening are interviewed and sign the **Drug Testing Acknowledgment Form and Previous Employer Release Drug and Alcohol Testing Form** (if employee has worked less than two (2) years for the Navajo Transit System)
3. The selected employee is given a **Collection Site Request Form** and asked to report to a collection site and complete a urine test within 2 hours of the notification.
4. The Drug Program Administrator will put the signed **Drug Testing Acknowledgment Form** and the signed **Previous Employer Release Drug and Alcohol Testing Form (if employee has worked less than 2 years for the Navajo Transit System)** for each applicant is kept in a secure location.
5. When the drug test result is received from the MRO (this may take from 1 to 5 days), the Drug Program Administrator may be able to start the employee on his/her new safety sensitive duties.
6. If the drug test comes back "positive", the applicant cannot be transferred to a safety-sensitive position at that time. An SAP referral must be given to the employee as soon as possible
7. If the **Previous Employer Drug and Alcohol Testing Release Form** is returned and there has been a positive test result in the past 24 months, the DER must ask the applicant for paperwork showing that the applicant has completed an SAP evaluation, if a Return To Duty test has been done, and Follow Up testing recommended. If the applicant is hired, it is up to Navajo Transit System to make sure the applicant completed an SAP evaluation and recommended treatment and passed a Return To Duty test before performing safety-sensitive duties. Additionally, it is the responsibility of Navajo Transit System to make sure the recommended Follow Up testing is continued and completed

Applicant Drug Testing Acknowledgment

I understand that as part of my application for employment I must successfully complete a Navajo Transit System drug test as required by 49 CFR parts 40& 655. I understand that a negative test result is required before I will be able to perform a safety sensitive function. Participation in the federal drug and alcohol testing program is a condition of employment.

I also certify that I have not had a positive drug test result or refused to test on a DOT pre-employment drug test in the past 2 years.

Signature of applicant

Witness

Date

Date

Collection site Arrival Date _____ & Time _____

Collection Site Request Form Notice to Report for Drug and/or Alcohol Test

Company name: _____

Employee/Applicant's Name: _____

Social Security Number: _____

Specimen Collection Site: _____

Address: _____

Test Type: Federal Test > FTA ☐ or FMCSA ☐ Company (non-federal) Test ☐

- | | |
|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Pre-employment (drug only) | <input type="checkbox"/> Post-Accident (<input type="checkbox"/> drug / <input type="checkbox"/> alcohol) |
| <input type="checkbox"/> Random (<input type="checkbox"/> drug / <input type="checkbox"/> alcohol) | <input type="checkbox"/> Return to Duty (<input type="checkbox"/> drug / <input type="checkbox"/> alcohol) |
| <input type="checkbox"/> Reasonable Suspicion) | <input type="checkbox"/> Follow up (<input type="checkbox"/> drug / <input type="checkbox"/> alcohol) |

Methods: _____

☐ Urine test for drugs ☐ Breath ☐ Saliva Alcohol Test

Dear Employee/Applicant:

You are required to report ☐ immediately or ☐ on (_____, 20____, at _____) for a drug and/or Alcohol test. You must present a picture ID at the collection site.

The time the employee was notified to go to the collection site. _____

Collector: If you need to contact the company. The Designated Employer Representative is :

Name DER can be reached at _____
Telephone number

Please fill in the arrival time and fax back to the DER: FAX# _____

**PROCEDURES FOR PREVIOUS EMPLOYER DRUG
AND ALCOHOL TESTING RELEASE FORM
24 MONTH HISTORY**

1. Have the applicant sign a **Previous Employer Drug and Alcohol Testing Release Form** for each previous employer. Fill out the work history on the form.
2. Look at work history for past 2 years and determine if applicant worked in a safety-sensitive position before and if the previous employer(s) is covered by the DOT regulations for Drug and Alcohol Testing requirements. (Aviation, Trucking, Transit, Coast Guard, Railroad or Pipeline)
3. If the applicant did not work for a DOT covered employer in the past 2 years, mark "No Verification Needed" or "Not Applicable" on the form and file it in the drug-testing file.
4. If applicant did work in a safety-sensitive position before, call the previous employer or employers and determine who is the Designated Employer Representative (DER). If the applicant worked for more than one DOT agency in the past 24 months have him/her sign a release for each employer.
5. Mail or fax the signed Previous Employer Drug and Alcohol Testing Release Form to the previous employers' DERs so they can fill it out, sign it and mail or fax it back to you. The fax cover sheet and request letter should be on company letterhead.
6. Once the form is returned, review the information, making sure the form has been signed. If all boxes are checked "No" mark the form O.K. and, the date you received it, and file the finished document in a secured location with the employees/applicant's other employment drug testing records.
7. If the Previous Employer Drug and Alcohol Testing Release Form is sent back with any boxes marked "Yes" and the employee is already hired or you want to hire him/her you must get the SAP's evaluation and recommendations.

The DER must insure that the employee who has either, refused to test or tested positive in the past 2 years has completed the SAP's recommended treatment. This includes a negative result on a return to duty test and follow-up testing. If the recommended treatment has not been completed Navajo Transit System is obligated to finish the appropriate testing.

Keep all correspondence in secured files (drug and alcohol files must always be secured with limited access)

8. If the Previous Employer Drug and Alcohol Testing Release Form is not returned in a timely manner, call the previous employer to check on the status of the information. Document all attempts to retrieve the information. If after 2 attempts to get the form filled out and 30 days have passed and there is no reply, mark the form with "No Response" and record the date. File the document with the employees/applicant's pre-employment drug testing files.

Previous Employer Drug and Alcohol Testing Release Form Required by the Dept. of Transportation (49CFR part 40.25)

Agency Requesting: _____, Fax Reply to: _____

As a requirement of 49CFR part 40.25 it is necessary to obtain drug and alcohol testing information from applicants' previous covered employer(s). This information must be obtained from all DOT regulated employers from the preceding two years. The documentation **must** be obtained no later than 30 calendar days after the first time a covered employee performs a safety-sensitive function.

Attention Personnel: New hires must fill out and sign this release form

PART 1 - TO BE COMPLETED BY APPLICANT

I, _____, hereby authorize the following companies (for which I worked) to furnish the information requested concerning my drug and alcohol test records:

This information will be released to _____ (company/agency)

Previous DOT covered employers for the past 2 years:

Print Clearly

Company Name	Address, City and State	Phone	Fax

This Authorization is valid until withdrawn by me in writing.

Dated this _____ day of _____, 201_____

Name of applicant (print) _____ Signature of applicant _____

Social Security Number _____

PART 2. - TO BE COMPLETED BY PREVIOUS EMPLOYER

1. Has this person received any positive results for controlled substance tests in the past 2 years? Yes, No
2. Has this person received Alcohol test results of 0.04 or greater in the past 2 years? Yes, No
3. Has this person refused to participate in the required testing program in the past two years? Yes, No
4. Has a Substance Abuse Professional evaluated this person? Yes, No

If yes, is he/she in compliance with SAP's recommendations?

If you answered, "Yes" to any of the previous questions please release all documentation relating to the SAP evaluation, assessment, recommendations, and follow up & return to duty testing records.

SAP Name _____ SAP Phone # _____

Company Name _____ Date _____

Name of person releasing information _____ Signature _____

Fax Completed form as soon as possible to _____ or

Mail to _____

PRE-EMPLOYMENT TESTING PROBLEMS

INSUFFICIENT VOLUME

If the applicant is unable to provide 45 ml of urine in order to complete a drug test

1. The collector must discard any insufficient specimen, except where the insufficient specimen was out of temperature range or showed evidence of adulteration or tampering.
2. The collector must provide the applicant with up to 40 ounces of fluids (measured) and distributed over a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever comes first. It is not a refusal if the applicant declines to drink fluids.
3. If the applicant refuses to make another attempt, the collector must discontinue the collection and inform the DER immediately. This is a refusal to test. The DER must provide the applicant with an SAP referral.
4. If the applicant is unable to provide a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collector must discontinue the collection and notify the DER immediately. The DER must consult with the MRO and direct the applicant to obtain (within 5 working days) an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issue raised by the applicant's failure to provide a sufficient specimen. The MRO may perform this evaluation if the MRO has appropriate expertise. The MRO will review the evaluation and determine if there is a legitimate medical condition for the applicant's failure to provide a sufficient specimen. The MRO will report the results of his findings as either a cancelled or refusal to test (unless the inability to provide urine is the result of a long term disability)
5. If a refusal to test is reported, the applicant must be referred to an SAP .
6. If the test is cancelled (and there is no long term disability) another test must be taken before the hiring process can be continued.

DILUTE SPECIMEN

1. If the MRO reports a dilute positive test, the test is treated as a positive and the DER must send the applicant/employee to an SAP referral immediately; And, begin any other consequences of a positive test result stated in the policy.
2. If the MRO reports a negative drug test was dilute, a second test may be completed.
3. If the second test is reported as negative and dilute, this test must be considered negative and the test of record unless you are instructed differently by the MRO.

REASONABLE SUSPICION PROCEDURES FOR DRUG AND ALCOHOL TESTING

All employees designated as safety-sensitive under the Navajo Transit System, who are reasonably suspected of being impaired by alcohol or a controlled substance during working hours, will be required to submit to a drug test and/or alcohol. The following are the guidelines for Reasonable Suspicion Testing.

1. Grounds for reasonable suspicion of impairment are those contemporaneous, objective observations of appearance, behavior, speech, or body odors that lead a supervisor to believe that the employee is using a controlled substance or has misused alcohol.
2. The Navajo Transit System requires that the observations, documentation and decision to conduct reasonable suspicion testing be made by a supervisor who has been trained in the facts, circumstances, physical evidence, physical signs and symptoms, or patterns of performance and /or behavior that are associated with use.
3. Once the decision to Reasonable Suspicion test has been made, the trained supervisor should immediately, and as confidentially as possible, remove the employee from their safety-sensitive duties.
4. The supervisor should then notify the DER of the impending test and request arrangements be made for testing.
5. The employee in question will then be driven to the collection site by the supervisor or another designated company employee.
6. The supervisor shall document all observations and information which create reasonable suspicion when an employee is suspected of being impaired by alcohol or a controlled substance. The documentation should be submitted to the DER immediately after the suspected employee has undergone testing. The employee in question should **Not** be returned to safety sensitive duties until the test results are reported back to the DER.

See Confidential Reasonable Suspicion Documentation Form on page 11.

ALCOHOL TESTING

7. Alcohol tests should be performed just prior to, during or just after the performance of safety sensitive duties. A Breath Alcohol Technician (BAT) administers a breath alcohol test to the employee. If the breath alcohol test is not administered within two hours following the incident, documentation must be prepared and maintained on file stating the reason the test was not promptly administered. If the test is not performed within eight hours of the incident all attempts shall cease. If the test is performed and the breath alcohol concentration is 0.02 or greater on the screening test, the BAT must do a confirmatory test between 15 and 30 minutes of the completion of the screening test. If the confirmation test is 0.02 or greater, the BAT must immediately notify the DER. The DER then ensures the employee is taken of safety sensitive duty.

8. If the employee has a confirmed breath alcohol concentration of 0.02 or greater, the supervisor who took the employee in for testing will drive the employee home.
9. FTA requires that an employee with a confirmed alcohol result of 0.02 or greater but less than 0.04 must be off duty for 8 hours or his next shift whichever is greater. If the confirmed alcohol test result is 0.04 or greater it is considered a positive test result and he must be removed from safety sensitive duty and referred to a SAP.

DRUG TESTING

10. A supervisor will take the employee to the collection site immediately. If the collection has not been performed within 32 hours after the incident, all attempts to do testing must cease.
11. After the drug testing is completed, the supervisor will take the employee home. The employee cannot return to his/her safety-sensitive position until a negative result has been received from the MRO.

Confidential Reasonable Suspicion Documentation Form

This form is to be prepared each time there is an occasion to send an employee for a reasonable suspicion drug and alcohol test.

Employee's Name: _____

Date of Observation: _____ Time from: _____ until: _____

Location: _____

Observed behavior: (check all that apply):

☐ Presence of Drugs, Drug Paraphernalia and/or Open Container of Alcohol: _____

Physical Observations:

- | | |
|------------------------------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> drowsiness | <input type="checkbox"/> noticeable weight loss/lack of appetite |
| <input type="checkbox"/> dilated pupils | <input type="checkbox"/> unsteady walk/loss of physical control |
| <input type="checkbox"/> constricted pupils | <input type="checkbox"/> ravenous appetite |
| <input type="checkbox"/> red eyes | <input type="checkbox"/> profuse sweating |
| <input type="checkbox"/> runny nose/chronic nasal problems | <input type="checkbox"/> odor of alcohol |
| <input type="checkbox"/> odor of marijuana | |

Behavioral Observations:

- | | |
|------------------------------------------------------|------------------------------------------|
| <input type="checkbox"/> personality change | <input type="checkbox"/> slurring speech |
| <input type="checkbox"/> moodiness | <input type="checkbox"/> rapid speech |
| <input type="checkbox"/> alienation | <input type="checkbox"/> incoherent |
| <input type="checkbox"/> combativeness | <input type="checkbox"/> whispering |
| <input type="checkbox"/> panic reactions | <input type="checkbox"/> silence |
| <input type="checkbox"/> neglect of personal hygiene | <input type="checkbox"/> slow speech |
| <input type="checkbox"/> depression | |

Performance Observation:

- | | |
|------------------------------------------------|---------------------------------------------|
| <input type="checkbox"/> unable to concentrate | <input type="checkbox"/> loss of interest |
| <input type="checkbox"/> errors in judgment | <input type="checkbox"/> impaired reasoning |

Notes: _____

Was a reasonable suspicion drug and/or alcohol test performed?

Yes, Where/when? _____

No, Why not? _____

This report documents the physical, behavioral and performance indicators of the above named employee, observed by me on which I base my decision to require (or not) the employee to submit to a reasonable suspicion test.

Signature of supervisor observing

Date

Signature of supervisor/witness

Date

POST-ACCIDENT PROCEDURES FOR DRUG AND ALCOHOL TESTING

The FTA regulations require that any employee covered by this policy immediately submit to tests for controlled substances and alcohol if he or she is involved in an accident (regardless of whether or not the vehicle is in revenue service). Under Federal Regulations an accident is defined as an occurrence associated with the operation of a vehicle in which:

1. There is a fatality as a result of the accident
2. An individual involved in the accident/incident suffers injuries that require medical treatment away from the scene of the accident.
3. The mass transit vehicle involved is a bus, electric bus, van or automobile in which one or more vehicles incurs disabling damage as a result of the accident and must be transported from the scene of the accident by a tow truck or other vehicle.
4. The mass transit vehicle involved is a railcar, trolley bus or vehicle and is removed from revenue service.

This includes safety-sensitive employees who are on duty in the vehicles and any other whose performance could have contributed to the accident. Post accident testing is required for any accident in which an individual dies. Post accident testing is required for any non-fatal accident unless the employee's behavior can be completely discounted as a contributing factor to the accident. Full documentation on the Accident/Incident Form must be made as to why the employee is discounted as a contributing factor and not tested.

If any of the situations listed above have occurred, post accident testing is mandatory for the fatal accidents/incidents and any accident/incident in which the employee is/or can not be completely discounted. The following procedures must be followed.

1. The employee involved in the accident must immediately notify dispatch.
2. A driver supervisor is dispatched to the scene of the accident with all the necessary documentation available.
3. Dispatch notifies the DER of the impending test.
4. The supervisor will begin to complete the **Accident /Incident Documentation Form**. This form must be used to document each accident/incident even if no testing takes place.
5. A driver supervisor will take the employee to a drug and alcohol testing site.
6. If the employee is being treated at the hospital, the driver supervisor will contact the DER and inform him/her of the situation. If the employee is able to be tested, the DER should remind the supervisor to request that the alcohol test be done first; if the breath alcohol test is not administered within two hours following the accident, documentation must be prepared and maintained on file stating the reasons the test was not promptly administered. If the employee has not been tested for

alcohol within 8 hours following the accident all attempts to alcohol test must cease. If the test is performed and the breath alcohol content is 0.02 or greater on the initial test, the BAT must perform the confirmation test no less than 15 minutes and no more than 30 minutes after the initial test was performed. If the confirmation test is 0.02 or greater, the BAT must notify the DER immediately.

If the urine collection has not been performed within 8 hours following the accident, the Driver Supervisor needs to prepare and maintain documentation as to why the test has not yet been performed. If the urine collection has not been performed within 32 hours after the accident, all attempts must cease.

****If the covered employee is unable to give consent to be tested due to being injured and unconscious or dead, DO NOT proceed with testing by catheterization or any other means. The federal rules also prohibit catheterization of a conscious employee. If you are unable to get employee consent within the time frames allowed for testing, you must document the reason for not testing on the Accident/Incident Documentation Form.**

7. After the drug test is completed, the driver supervisor will take the employee home if the employee is release.
8. Employee shall not be allowed to return to safety sensitive duties until medically cleared after an accident.

A safety-sensitive employee involved in an accident that requires drug and alcohol testing must remain readily available for testing. If the employee does not do so, the employer can treat such behavior as a refusal to submit to testing. This does not mean that the employee cannot leave the scene of the accident to obtain emergency medical assistance or that medical attention will be delayed for an injured employee.

In the event of a non-fatal accident the supervisor may determine that the safety sensitive employee involved was not a contributing factor in the accident/incident event. The supervisor will discuss the situation with the DER and may decide not to test the employee.

In rare circumstances where law enforcement personnel have tested the employee for drugs and alcohol, the company may accept those results if law enforcement personnel will release the information.

Accident/Incident Documentation Form

Date of accident/incident: _____ Time of accident/incident: _____

Location of accident/incident: _____

Description of accident/incident: _____

Employees (other people) involved in the accident/incident: _____

Witnesses: _____ Phone Number: _____
_____ Phone Number: _____

1. Was there loss of life as a result of the accident? Yes ☐ , No ☐
2. Was medical treatment provided (away from the scene of the accident) as a result of the accident/incident? Yes ☐ , No ☐
3. Was there disabling damage to any of the involved vehicles? Yes ☐ , No ☐

If you answer yes to any of the above questions the FTA requires drug and alcohol testing

- Was an alcohol test performed within 2 hours? Yes ☐ _____ (date & time).
No ☐ , Why not? _____
- Was a drug test performed within 32 hours? Yes ☐ _____ (date & time).
No ☐ , Why not? _____

Can the covered employee(s)' conduct be completely discounted as contributing factor to the accident/incident? Yes ☐ , No ☐ .

*If yes and the accident was non-fatal, the supervisor does not have to test the employee. However, document the reasoning for not testing the covered employee(s) involved. *Note: You must always test in the event of a fatality.

Reason for Not Testing: _____

Was post-accident testing done under the company policy authority ☐ or FTA ☐ ?

Was law enforcement involved? Yes ☐ , No ☐ , if yes, badge Number: _____

Name of the authority: _____

Notes: _____

Supervisor

Date

RANDOM PROCEDURES FOR DRUG & ALCOHOL TESTING

Any employee designated as safety-sensitive under the FTA Policy is subject to selection for drug testing at any time on a random basis. Random alcohol testing must take place just prior, during or immediately following the performance of a safety sensitive duty. The following is a procedural guide to help supervisors when an employee is selected for random testing.

1. The DER will call the supervisor the same day that the employee must undergo a random test. The supervisor will be told if it is a random drug, alcohol, or drug and alcohol test, the location of the collection site to send the employee and the time they are to report for the test.
2. Right before the time that the employee is to be tested, the supervisor will notify the employee they have been randomly selected for a test. **No prior knowledge can be given to the selected employee.** The employee will be given directions to the collection site and instructed to report there immediately. The employee will be given a Collection Site Request Form to take to the collections site indicating the type of test and what tests are needed. They may also be given the appropriate drug testing supplies if they are not stocked at the collection site.
3. The supervisor will note the date and time the employee was given the instructions to report for random testing and report that information to the DER. The supervisor should also remind the employee that he/she must report to the collection site immediately.
4. If the employee chosen for random testing is unavailable to be tested due to vacation, sick leave, etc., the supervisor will wait for the return of the employee to conduct the test. If the employee will not be returning to work during the testing period, the supervisor will notify the DER so that another employee can be chosen for random testing.
5. If the employee refuses to go for the random test when directed or does not show up at the collection site in the allotted time, the DER should be notified and it will be considered a refusal to test with the same consequences as a positive test.
6. **Every attempt should be made to ensure that random testing is done all hours of operation; all days that service is provided.**
7. A spreadsheet is kept by the DER documenting each testing event. Included in the information is the time the employee is notified and the time and day of the test. This form is used as a tool to help keep track of the random testing times as well as the receipt of the documentation from the collection site and MRO.

PROCEDURES FOR RECEIVING RESULTS

1. Drug results will be sent to the DER's office by *secured fax, secure email or by confidential mail*. Be sure your results are transmitted to you in a secured manner. If the result is positive, the MRO will call before sending the result and inform the DER of the positive result. The DER contacts the employee and immediately removes him/her from safety-sensitive duties. The employee must be referred to a qualified Substance Abuse Professional (SAP).
2. The employer copy of the Custody and Control Form (CCF) should be sent directly to the DER from the collection site within 1 day of the collection.
3. Breath Alcohol testing results will be faxed or mailed in an envelope to the attention of the DER marked "confidential". Positive alcohol test results must be reported immediately by phone by the BAT when the test is performed. The employer's copy of the Breath Alcohol Testing Form (ATF) will be faxed or mailed by the collection site in the U.S. mail.
4. The DER must fax the copy of ATF to your Third Party Administrator/Consortium..
5. Match the drug test results from the MRO with blue copy (employer's copy) of the CCF form
6. After receiving drug and alcohol results, the DER verifies the identifying information on the test result and reviews the employer copy of the CCF for any obvious errors; for example: illegible employer copy, shadow dates and initials on the bottom of the form or not specifying the courier the specimen was released to. Report any errors to collection site for correction.
7. File the CCF, Breath Alcohol Testing Form and drug testing results in a secured file according to date tested until all copies of the records are received.
8. Pre-Employment Results:
Match the social security number on all paperwork. Enter results in the system* (**note the spreadsheet for recording testing information*). File the results, employer copy of the CCF and other signed forms in a secured location.
9. Random and Follow-Up Test Results:
Enter result in system*. Keep the random list generated each period and document the reason why any person was selected but not tested.
10. Post Accident Test Results:
Enter result in system*. File with Post Accident/Incident Form in secure location.
11. Reasonable Suspicion Test Results:
Match the social security number and enter results in the system*. Inform supervisor to return the employee to duty if the result is negative. If the result is positive follow appropriate

procedures for positive test results. Enter result in system*. File with the Reasonable Suspicion Documentation Form in secure location.

12. POSITIVE TEST RESULT - SAP referral forms:

Any employee who receives a positive result or refuses to be tested must be referred to a SAP. The DER will fill out the SAP referral form on page 21 and ask the employee to sign the form. A copy of the signed form should be kept attached to the positive test result or refusal documentation.

ALL RESULTS AND PAPERWORK PERTAINING TO DRUG AND ALCHOL TESTS ARE SECURED IN LOCKED FILE CABINET IN THE DER'S OFFICE.

GENERAL INFORMATION

A Refusal to test can include a variety of behaviors, including;

- verbal or written refusal
- physical absence
- an inability to provide a urine specimen or breath sample without a valid medical explanation
- failure to undergo a medical evaluation or an observed collection when required
- obstructive behavior
- failure to provide a urine sample
- not reporting to the collection site in the time allotted (except in the case of pre-employment)
- not remaining at the collection site until the completion of the process
- failure to sign step 2 of the alcohol test form
- failure to permit monitoring or direct observation when appropriate
- leaving the scene of an accident prior to submitting to a post-accident test when required
- failure to take a second test as directed by the collector or employer
- having an adulterated or substituted test result verified by an MRO.
- employee admitting to the collector/MRO that he/she adulterated or substituted their specimen
- employee behaves in a confrontational way that disrupts the collection process
- failure to follow the observer's instructions to raise and lower their clothing and to turnaround 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.
- the employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- the employee refuses to wash his or her hands after being directed to do so.

A refusal to test will be treated the same as a positive test result.

Observed Collection Protocol:

The Federal Guidelines state that employees having observed collections must be instructed to raise clothing, just above the navel; lower clothing, to mid-thigh; then turn around to show the same gender observers they do not have prosthetic devices for beating the tests. If no device is detected, the employee is permitted to return clothing to its proper observed-collection position. Then the observed collection will take place. The following are the circumstances in which an observed collection will take place.

- All return-to-duty tests (second chance policy);
- All follow-up tests (second chance policy);
- Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;

- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.
 - The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device."
-

Acknowledgment of Referral of Substance Abuse Professional

I, _____, The undersigned, acknowledge that the below indicated circumstance, or circumstances, (so indicated by a check) has resulted in my being referred to the following Substance Abuse Professional.

- () having a verified positive drug test result on _____ (date)
- () having refused to submit to a drug and/or alcohol test on _____ (date)
- () reporting for duty or remaining on duty (performing safety sensitive functions) having a positive alcohol concentration of 0.04 or greater on _____ (date)

Name of Substance Abuse Professional _____

Address, _____

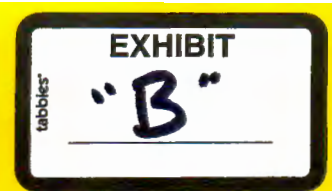
Telephone, _____

This action is taken in accordance with provisions 49 CFR part 40.

Acknowledged this _____ day of _____, 200

Signature of Employee _____

Referring Supervisor _____



S164 Review Doc # 8049

**Approval of revision to NTS
Substance Abuse Policy**

Document:

Policy Revisions with strikeouts

NAVAJO TRANSIT SYSTEM

Substance Abuse Policy

I. POLICY

Navajo Transit System is dedicated to providing safe, dependable and economical transportation services to our transit system passengers. The Navajo Transit System's employees are our most valuable resource and it is our goal to provide a safe, satisfying working environment, which promotes personal opportunities for growth. In meeting this goal it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

The Navajo Transit System's Substance Abuse Policy was approved and adopted by the Health, Education, Human Services Committee (HEHSC) of the Navajo Nation Council as shown in Attachment C with a copy of the signed adoption by the HEHSC and is on file at the Navajo Transit System. Anytime this policy is amended or updated due to changes in Federal regulations in the future, the policy will contain the date, proof of adoption of the amended policy by Navajo Transit System's oversight committee and the date the amended policy, or portion thereof, became effective.

II. PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. **The Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, which mandates urine drug testing and breath alcohol testing for safety-sensitive positions and which prohibit performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, ~~and the Omnibus Act from 1991~~ as amended, which sets standards for the collection and testing of urine and breath specimens. Part 40 also mandates specific protocols used by the Medical Review Officer (MRO), Substance Abuse Professional (SAP), Collector, Breath Alcohol Technician (BAT) and Third Party Administrator/Consortium (TPA). The sections of this policy that reflect Parts 655 and 40 will be indicated by the use of Bold Typeface. Copies of the Federal Regulations are available upon request.** Pursuant to its funding agreements the Navajo Transit System is required by federal law to comply with these regulations. This policy incorporates those regulations for safety-sensitive employees and others when so noted.

III. APPLICABILITY

This policy applies to all Navajo Transit System employees; paid part-time employees; contract employees and contractors when performing any transit-related safety-sensitive duties or when they are on transit property. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contract employees, who come onto transit's premise to conduct transit business, are governed by this policy while on the premises and will not be permitted to conduct transit business if found to be in violation of this policy.

Participation in the Substance Abuse Program as stated in this policy is a condition of employment. Any safety sensitive employee who violates this policy by having a confirmed positive drug or alcohol test result or refuses to be tested when required, shall be immediately removed from safety sensitive duty and referred to a Substance Abuse Professional (SAP).

All positions at Navajo Transit System were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. A full listing of positions which were determined to be safety-sensitive are listed in Attachment A.

The FTA anti-drug rule preempts any state or local law, rule, regulation The FTA anti-drug rule preempts any state or local law, rule, regulation, or order to the extent that: (a) compliance with both the state or local requirement and any requirement in this part is not possible, or (b) compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement in this part.

Navajo Transit System is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including dismissal.

IV. DEFINITIONS

"Alcohol" Any beverage containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance, which causes alcohol to be present in the body while performing safety-sensitive transit duties, or while on-call to perform a safety sensitive duty is prohibited.

"Illegally Used Controlled Substances or Drugs" Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21

U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

“Legal Drugs” A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken, and the period of authorization.

“Medical Review Officer (MRO)” A licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information. The MRO shall meet the requirements and follow all procedures set forth in 49 CFR Part 40, as amended.

“Prohibited Conduct” addressed by this policy include the following:

- a. **Manufacture, Trafficking, Possession, and Use:** Navajo Transit System employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on transit authority premises, in transit vehicles, in uniform, or while on transit authority business.

- b. **Alcohol Use:** No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. An employee with an alcohol test result of 0.04 or greater is considered to have a positive alcohol test result and is in violation of this policy. No safety-sensitive employee shall use alcohol while on duty, in uniform, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty, or during the hours that they are on-call. If an on-call employee has consume alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. No safety sensitive employee shall use alcohol for 8 hours following involvement of an accident or until the employee has undergone a required post-accident alcohol test, whichever is first. No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.02 or greater. An employee with an alcohol test result of 0.04 or greater is considered to have a positive alcohol test result and is in violation of this policy.

If the Navajo Transit has actual knowledge of the use of alcohol while the employee is performing safety-sensitive functions, the employee will not be permitted to continue to perform the safety sensitive duty.

b.—

- c. **Illegal Use of Legal Drugs:** The misuse or abuse of legal drugs while performing transit business is prohibited. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected substance, which carries a warning label that indicates the mental functioning, motor skills, or judgment may be adversely affected, must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate the employee, as appropriate must seek medical advice, before performing work-related safety-sensitive duties.

“Prohibited Substances” addressed by this policy include the following:

- a. **Illegally Used Controlled Substances or Drugs**
Safety sensitive employees will be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP).
- b. **Alcohol**

“Revenue Service Vehicle” The vehicles used to provide revenue service for passengers.

“Safety-Sensitive Function” Any duty related to the safe operation of mass-public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), control or dispatch of a revenue service vehicle or equipment used in revenue service, and maintenance of a revenue service vehicle or equipment used in revenue service (maintenance functions include the repair, overhaul and rebuild of engines, vehicles and/or equipment used in revenue service), security personnel who carry firearms, and any other employee or volunteer who perform duties requiring a CDL and/or performs a safety-sensitive function and receives remuneration in excess of their actual expenses. Supervisors performing (or who may perform) any of the above described functions are considered to be safety-sensitive employees.

“Substance Abuse Professional (SAP)” An SAP can be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders The SAP must meet the requirements and adhere to the procedure and requirements defined in 49CFR part 40, subpart O. ~~A licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, a state-licensed or certified marriage and family therapist, or an addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification~~

~~Commission. The SAP must meet the requirements and follow the procedures and responsibilities set forth in 49 CFR Part 40 subpart O.~~

V. PROHIBITED SUBSTANCE TESTING

A. TYPES OF DRUG & ALCOHOL TESTING EVENTS

i. PRE-EMPLOYMENT TESTING

a. Drug Testing

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment into a safety-sensitive position or before transferring into a safety-sensitive position. Receipt by Navajo Transit System of a negative drug test result is required prior to performing safety-sensitive duties. If the test is ~~cancelled~~cancelled, the applicant must retake and pass a drug test before performing safety-sensitive duties.

If a safety-sensitive employee returns to work and has been off for 90 days or more and has not remained in the random pool, he/she must pass a Pre-Employment drug test before resuming safety-sensitive duties.

When a covered employee or applicant has previously failed a DOT pre-employment drug test, (or any other DOT-regulated drug or alcohol test or refused to be tested in the prior 2 years), the employee must present to the employer proof of successfully having completed a referral, evaluation and treatment plan as described in Sec. 655.41(a)(2) and 655.62 to be considered for the hiring process.

b. Alcohol Testing

If Navajo Transit System chooses to conduct pre-employment alcohol testing, the employer will comply with Section 655.42. The agency will not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.02.

c. Long-Term Disability

If otherwise qualified, an individual with permanent or ~~long-term~~long-term disabilities that directly render them unable to provide an adequate urine specimen will be able to perform safety-sensitive duties despite their inability to provide urine during a pre-employment test. The MRO will determine ~~long-term~~long-term inability to provide urine by medical examination and consultation with the employee's physician.

ii. REASONABLE SUSPICION TESTING

All safety-sensitive employees may be subject to fitness for duty evaluation and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral must be made by a supervisor or agency official, trained in the signs and symptoms of drug and alcohol misuse, who has personally observed and documented objective facts and circumstances which are consistent with the short-term effects of substance abuse and alcohol misuse. The criteria for a reasonable suspicion test must be based on contemporaneous, articulable, observations concerning the appearance, behavior, and speech or body odor of the safety-sensitive employee. A supervisor or trained official making the decision to conduct a reasonable suspicion test must have had the appropriate training as defined in 49 CFR Part 655.14 (b)(2) and may not act as the Screening Test Technicians (STT) or Evidential Breath Testing (BAT) for that test.

Reasonable suspicion alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties; and the observations leading to that testing must be made during, just preceding, or just after the employee performs covered duties. Alcohol tests delayed more than two hours must be accompanied with documentation specifying the reason for such a delay. If the alcohol test is not done within 8 hours, the reasons for not testing must also be updated on the written report.

Once the decision to reasonable suspicion test is made, the employee will be removed from safety-sensitive duties until the test results are received. The employee will be escorted to the collection site by the supervisor or another transit employee.

iii. POST-ACCIDENT TESTING

Post-accident testing of safety-sensitive employees involved in an accident/incident with Navajo Transit System's vehicle (regardless of whether or not the vehicle is in revenue service) will be subject to post-accident drug and alcohol testing. Post-accident testing is mandatory for accidents where there is loss of life. Testing is also required for nonfatal accidents if, 1) any individual(s) involved in the accident receives immediate medical treatment away from the scene of the accident, or 2) one or more vehicles involved in the accident incurs 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) requiring transportation from the scene by tow truck or other vehicle; or 3) if the public transportation vehicle is a rail vehicle or vessel that is removed from revenue service.

When there is loss of human life, each surviving safety-sensitive employee on duty in the mass-public transit vehicle at the time of the accident must be tested. Safety-sensitive employees not on the vehicle (e.g. maintenance personnel), whose performance could have contributed to the accident (as determined by Navajo

Transit System using the best information available at the time of the accident) must be tested.

Safety-sensitive employees on duty in the public transportation vehicle at the time of a nonfatal accident (fitting the criteria above) must be tested unless their behavior can be completely discounted as a contributing factor to the accident. Other safety-sensitive employees whose performance could have contributed to the accident, as determined by Navajo Transit System, using the best information available at the time of the decision, shall also be tested after a nonfatal accident.

Following an accident, safety-sensitive employees will be tested as soon as possible, but not to exceed 8 hours for alcohol testing and 32 hours for drug testing. All accidents will have documentation as to whether or not a test was administered and the rationale for such a decision. If alcohol testing is not done within 2 hours of the accident, the reason for not testing must be documented, retained in a file for possible later referral, in a report and attempts to alcohol test must continue for up to 8 hours after the accident. If alcohol testing is not done within 8 hours or drug testing is not done within 32 hours following the accident, the reasons for not testing must also be updated on the written report. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following an accident or until they undergo a post-accident alcohol test.

Safety-sensitive employees subject to post-accident testing must remain readily available for testing and the employer must know the whereabouts of those employees at all times until post-accident testing has been completed or until the employee has been completely discounted as a contributing factor.

The results of a blood, urine, or breath test conducted by Federal, State, or local officials shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results can be obtained by the employer.

The requirements to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care. However, the safety-sensitive employee must remain readily available, which means Navajo Transit System knows the location of the safety-sensitive employee. Any safety-sensitive employee who leaves the scene of the accident, without a justifiable explanation, prior to submission to drug and alcohol testing will be considered to have refused the test and shall face disciplinary action up to and including termination.

iv. RANDOM TESTING

All safety-sensitive employees shall be subject to random, unannounced testing. These percentages are subject to annual review by the FTA. The testing rate performed by Navajo Transit System will always meet the minimum rate set by 49

CFR Part 655. These percentages are subject to change as a result of an annual statistical review by the FTA.

The selection of safety-sensitive employees, for random drug and alcohol testing, shall be made using a scientifically valid method such as a random number table or a computer-based random number generator that ensures each safety-sensitive employee that they will have an equal chance of being selected each time selections are made. Random tests will be unannounced and reasonably spread throughout all days, hours and shifts throughout the year when Navajo Transit System performs safety-sensitive functions. Employees are to proceed to the testing site immediately upon notification of a random test.

There is no discretion on the part of management or operations in the selection and notification of individuals for testing.

Random alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties.

B. TESTING PROCEDURES

All urine collections and alcohol testing procedures will be performed to the standards defined 49 CFR Part 40, as amended. An overview of the procedures are available in Attachment B to this policy. A copy of 49 CFR Part 40 is available upon request from Drug & Alcohol Program Administrator.

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant and as required by Federal regulations. Testing shall be conducted consistent with 49 CFR Part 40, as amended in a manner to assure a high degree of accuracy and reliability, using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS).

The employee shall be provided with written instructions prior to specimen collection for drug testing. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial drug screen, called an immunoassay test, will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test or a Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

In instances where there is a reason to believe an employee is abusing a substance other than the five drugs listed above, Navajo Transit System reserves the right to request a separate sample, under Navajo Transit System's authority using standard laboratory testing protocols, and to test for additional drugs.

The integrity of the alcohol testing process is insured by picture identification of the employee, use of a National Highway Traffic Safety Administration (NHTSA) approved EBT that displays and prints unique sequential numbers and is capable of producing ~~3~~three copies of the test result. The test is administered by a certified BAT who is "trained to proficiency" in the operation of the EBT being used. The BAT completes a Federal Breath Alcohol Testing form and insures that it is signed by the donor.

If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02 or greater, but less than 0.04 will be immediately removed from his/her safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but not less than 8 hours or until a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 655 for safety-sensitive employees. Alcohol testing will only be done just prior to, during, or just after a safety-sensitive employee's performance of safety-sensitive duties.

STT may be used to perform alcohol screening tests (saliva or breath); however, an EBT operated by a BAT must be used for confirmation of an alcohol test. Neither the STT nor BAT may act as a collector if they are a direct supervisor of the employee.

Laboratory results must be reviewed by a qualified MRO. The purpose of this review is to verify and validate test results. The laboratory shall report all results to the MRO in a confidential manner.

C. COMPLIANCE WITH TESTING REQUIREMENTS

All safety-sensitive employees will be subject to urine drug testing anytime while on duty and alcohol testing only just prior, during, and just after the performance of safety-sensitive duties.

Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty immediately, informed of educational and rehabilitation programs available, and referred to a SAP. A refusal to test will be treated the same as a positive test result.

Any safety-sensitive employee who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection.

i. REFUSAL TO TEST

Refusals can include a variety of behaviors, including:

- Failure to appear in a timely fashion (except for pre-employment) within a reasonable time, as determined by the employer, tests.

Define
EBT, BAT,
STT

STT - Screening Test Technician
EBT - Evidential Breath Testing
BAT - Breath Alcohol Technician

- Failure to remain until the testing process is complete. An applicant who leaves the testing site before the testing process commences for a pre-employment test has not refused to test;
- Failure to attempt to provide a breath or urine specimen.
- Failure to attempt to provide a breath or urine specimen.
- Failure to provide a sufficient quantity of urine or breath without a valid medical explanation.
- Failure to undergo a medical evaluation as required by the MRO or Designated Employer Representative (DER).
- Failure to cooperate with any part of the testing process for drug and alcohol testing.
- Failure to permit monitoring or observation.
- Failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- Possess or wearing a prosthetic or other device used to tamper with the testing process.
- Failure to take a second test as directed by the collector or employer.
- Admitting the adulteration or substitution of a specimen to the collector or MRO.
- The MRO's verification of a test as adulterated or substituted.
- Refusal to sign the certification at Step 2 of the Breath Alcohol Testing Form (ATF).

ii. **OBSERVED COLLECTIONS**

The observation will be done by a person of the same gender in the following circumstances:

- All return to duty tests (~~second-chance-policy~~)
- All follow up tests (~~second-chance-policy~~)
- Any time the specimen collected is out of temperature range (90°-100°F)
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with
- Anytime a collector observes materials brought to the collection site or employee's conduct clearly indicates an attempt to tamper with a specimen
- Anytime the employee is directed to provide another specimen because the Laboratory reported to the MRO that the original specimen was invalid without a valid medical reason
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted but had to be cancelled due to the test of the split specimen could not be performed

The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower

clothing and underpants to show the collector, by turning around, that they do not have a prosthetic device.

D. EMPLOYEE REQUESTED TESTING

Any safety-sensitive employee, who has been notified by the MRO of a verified positive drug test and/or refusal to test due to adulteration or substitution may request the MRO to forward the split sample to, has 72 hours from the time of notification to request a test of the split specimen. This test must be conducted at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The employee is responsible for all costs for such testing unless the result of the split sample test invalidates the result of the original test. However, if the employee is unable or refuses to pay for the testing, Navajo Transit System will pay and ensure that the testing is done in a timely manner. Navajo Transit System may require reimbursement for the cost from the employee. The method of collecting, storing, and testing of the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for split sample testing must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. The MRO must direct the laboratory in writing to send the split sample with appropriate copies of the chain of custody form and a copy of the MRO's request for testing to another DHHS certified laboratory. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.

E. CONSEQUENCES OF A FAILED TEST

Safety-sensitive employees who have a verified positive drug or confirmed alcohol or refuses to submit to a required test shall be removed from safety-sensitive duty immediately; informed of educational and rehabilitation programs available; referred to a SAP; subject to disciplinary action, up to and including termination. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

F. NEGATIVE DILUTE DRUG TEST RESULT

All employees/applicants/ with a dilute negative test result will be required to retest. The second test result will stand as the test of record and no additional testing will be required unless directed to do so by the MRO. A dilute positive result is treated the same as any other positive drug test result.

VI. VOLUNTARY TREATMENT REQUIREMENTS

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees

Period after
MRO

may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Navajo Transit System's requirements for treatment, after-care, or return-to-duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Eligible employees will be allowed to take accumulated sick leave and/or vacation leave to participate in the prescribed rehabilitation program.

VII. NOTIFICATION OF CRIMINAL DRUG CONVICTION

All employees are required to notify the transit system of any criminal drug conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

VIII. TRAINING FOR SAFETY-SENSITIVE EMPLOYEES & SUPERVISORS

All safety sensitive employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use. The training will be in the context of prohibited drug use in the workplace, the FTA regulations, and the City of Hobbs' Navajo Transit System's substance abuse policy. Additional training shall also include information concerning the effects of alcohol misuse on the individual's health, work, and personal life, and signs and symptoms of an alcohol problem. Printed literature concerning prohibited drug use and the effects of drugs and alcohol as well as a service hotline for employees experiencing problems with prohibited drugs and alcohol will be made readily available to all safety-sensitive employees.

Supervisors will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Training shall be given to all supervisors concerning: (a) their role and responsibility of reasonable suspicion determinations, (b) procedures for initiating, sustaining, and documenting the referral of reasonable suspicions, (c) instructions for employee intervention, and (d) procedures for record keeping/documenting a reasonable suspicion event. Supervisors will not perform supervisory duties that require reasonable suspicion determination prior to completing supervisor training.

All safety-sensitive employees shall receive a minimum of 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and indicators of prohibited drug use.

Supervisors responsible for making the decision to generate a reasonable suspicion test must receive a minimum of 60 minutes of training on drug and 60 minutes of training on

~~alcohol information regarding the physical, behavioral, speech and performance indicators of probable drug and alcohol misuse.~~

IX. EMPLOYEE ACCESS TO RECORDS

Drug testing records must be kept in a secure location with controlled access. Drug and alcohol test results may be released only under the following circumstances:

- Employer shall release information or copies of records regarding an employee's test results to a third party only as directed by specific, written instruction of the employee.
- Employer may disclose information related to a test result to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
- Upon written request, employer must promptly provide any employee with any records relating to his/her test, including calibration records and laboratory certification records.
- Employer must release information to the National Transportation Safety Board (NTSB) about any post-accident test performed for an accident under NTSB investigation.
- Employer shall make available copies of all results of employer testing programs, and any other records pertaining to testing programs when requested by DOT or any DOT agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed guideway systems.

X. Proper Application of the Policy

Supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the drug free and alcohol-free transit program should contact the following transit system representative:

Drug and Alcohol Program Manager (DAPM) / (DER) (Designated Employer Representative):

Name: Harrison Smith
Title: Delegated Department Manager III
Address: PO Box 1330
Window Rock AZ 86515
Telephone: (928) 729-4115

Name: Florida Lynch
Title: Senior Accountant

Address: PO Box 1330
Window Rock AZ 86515
Telephone: (928) 729-4108

Medical Review Officer (MRO): Services Will Be Provided by:

Name: Dr. Stephen Kracht / eScreen, Inc.
Address: PO Box 25902
Overland Park, KS 66255-590
Telephone:

Substance Abuse Professional (SAP):

Name: Richard Vinnay, SAP
Address:
Telephone:

Commented [BK1]: The SAP has retired. You now need to provide the names of two SAP's to employees' who fail or refuse a test.

DHHS Certified Laboratory:

Name: Alere Toxicology Services Inc.
Address: 450 Southlake Blvd
Richmond, VA 23236
Telephone:

Collection Site:

Name: RMCHCS Occupational Health Services
Address: 2111 College Drive Gallup NM 87301
Telephone: (505) 863-1866
Contact:

The toll-free number for
Substance Abuse
Assistance is:

1-800-662-HELP (4357)

EMPLOYEE RECEIPT OF
SUBSTANCE ABUSE POLICY

Return this completed form to your immediate supervisor

Print Employee Name: _____

I have received and will read Navajo Transit System's Substance Abuse Policy. I understand that I will be held responsible for the content of the policy and I agree to abide by Substance Abuse policy. If I need any clarification or if I have any questions regarding the substance of the policy, I will address them with the Navajo Transit System's program administrator.

I understand that violation of this Policy may be grounds for immediate termination of my employment.

This policy adheres to the Federal Transit Administration's mandated regulations for drug and alcohol testing.

Employee Signature: _____

Date Signed: _____

Attachment A

Safety-Sensitive Positions at Navajo Transit System

All positions at Navajo Transit System were reviewed for safety-sensitive duties to determine the safety-sensitive positions. Additionally, any new positions created in the future will be reviewed for safety-sensitive duties. The following positions were determined to be safety-sensitive:

Motor Coach Drivers (includes temporary personnel)

Senior Equipment Mechanic (includes temporary personnel)

Equipment Mechanic (includes temporary personnel)

Fleet Coordinator (includes temporary personnel)

Fleet Service Manager (includes temporary personnel)

Senior Auto Parts Technician (includes temporary personnel)

Department Manager III (includes temporary personnel)

Program Supervisor II (includes temporary personnel)

Transit Dispatcher (includes temporary personnel)

Safety Officer (includes temporary personnel)

Automotive Service Writer (includes temporary personnel)

Attachment B

Urine Collection and Alcohol Testing Procedures

Urine collection for drug testing shall be done at a location that provides:

- a privacy enclosure for urination
- a toilet receptacle large enough to contain a complete void
- a source for washing hands
- a suitable surface for writing

The collection site personnel shall be trained in the proper procedures for preparing the collection site, collecting the urine specimen, sealing and preparing the specimen for shipment and completing the custody and control form as required in 49 CFR Part 40.

A Federal drug testing custody and control form will be used for the collection unless the test is being performed under the authority of the Transit Agency and does not meet the FTA guidelines.

The collection room shall be inspected by the collector before and after each specimen collection for removal of any unauthorized persons and materials that could be used to adulterate the specimen. The collection site will be secure to prevent unauthorized access during the collection process.

The collector will verify the employee's identity by photo identification or by a Navajo Transit System representative. The collection will not proceed if identity is not verified. The collection site will notify the employer if the employee fails to report or ~~arrives more than 30 minutes late~~ for the appointment.

Commented [CTM2]: We are moving away from detailed times. The employee could interpret this as having 30 minutes to get to the site instead of "immediately"

The employee will be requested to check belongings (purses & briefcases) and remove any unnecessary outer clothing (sweaters, jackets, vests, etc.) The employee may retain their wallet.

The employee will be directed to wash their hands.

The collector will unwrap the collection cup or specimen bottle in front of the employee and direct them to the privacy enclosure. The collector remains outside the enclosure. The employee is instructed to provide at least 45 ml (about 2 ounces) of urine.

If the employee is unable to provide at least 45 ml of urine they will be given up to 40 ounces (measured) of fluids and remain at the collection site for up to 3 hours in an attempt to provide the specimen. If the required amount is provided, the specimen is forwarded to the laboratory. If the employee is unable to provide an adequate specimen within 3 hours, the insufficient specimen is discarded, testing discontinued and the employer notified. The MRO/DER shall refer the employee for a medical evaluation to determine whether the employee's inability to provide a specimen is

genuine or constitutes a refusal to submit to a drug test. The examining physician shall provide the MRO a brief statement setting forth his/her conclusion and the basis for it. Upon receipt of the ~~statements~~statement, the MRO shall report his/her conclusions to the employer in writing. If the MRO determines there is no medical explanation for the inability to provide an adequate specimen, this will be considered a refusal to test.

Within four (4) minutes of receiving the specimen from the employee, the collector will record the temperature of the specimen on the custody and control form. The temperature must be between 90°-100°F. Any specimen temperature out of that range requires a second specimen to be collected immediately under direct observation by a collector of the same gender. The incident is noted in the remarks section of the custody and control form and both specimens are sent to the laboratory, unless the donor refuses to submit to a directly observed test; which in this case the first specimen will be discarded and the test ruled as a refusal. The collector shall also visually examine the specimen for any unusual color or sediment, and note anything unusual on the custody and control form.

If the employee refuses to cooperate with the collection ~~proecess~~process, the collector notifies the employer immediately and documents the non-cooperation on the custody and control form.

The collection site person, in the presence of the donor, pours the urine from the collection cup into two specimen bottles. Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least 15 ml shall be poured into the other bottle, to be used as the split specimen.

Both bottles must be sealed and labeled in the presence of the donor. The labels must be printed with the same specimen identification number as the custody and control form. The collector dates and the donor initials the seals on the bottles verifying the specimen is his/hers.

The custody and control form is completed. The donor and collector and the donor must sign the appropriate certification statements on the form regarding authenticity of the specimen and information provided and the integrity of the collection process. Each transfer of custody must be noted on the chain of custody portion of the urine custody and control form. Every effort should be made to minimize the number of persons handling the specimen.

The specimen must be stored in a secured location until transport to the laboratory. Both the primary specimen and the split specimen shall be sealed in a single shipping container, together with the appropriate pages of the custody and control form

Observed Collections

Procedures for collecting urine specimens shall allow individual privacy unless there is a reason to believe that a particular individual may alter or substitute the specimen to be provided.

~~In the following circumstances the collector must observe the collection:~~

- ~~• The employee has presented a urine sample that falls outside the normal temperature range (90°-100°F).~~
- ~~• The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.)~~
- ~~• Previous sample is invalid and there is no medical reason; the collector is informed by the employer or MRO.~~
- ~~• The employee has previously violated the FTA/DOT regulations and the testing that is being performed is a return to duty or follow-up test.~~

~~The direct observation must be by a collector (or observer) of the same gender as the employee being tested. The observed collection procedure must adhere to the requirements of 49 CFR part 40 as amended. This requires the employee to raise his or her shirt, blouse or dress / skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to mid thigh and show the observer, by turning around, that the employee does not have a prosthetic device.~~

ALCOHOL TESTING PROCEDURES

Alcohol testing shall be done at a location that provides:

- Privacy to the individual being tested
- Security with no unauthorized access at any time to EBT
- BAT conducting only one test at a time who must not leave the testing site while the preparations for testing or the test itself are in progress.

Upon arrival at the testing site the employee must provide positive identification in the form of a photo identification or identification by The Transit Agency Supervisor.

The BAT will explain the testing procedures to the employee.

The BAT and the employee will complete, date and sign Step #1 and Step #2 of the alcohol testing form indicating the employee is present and providing a breath specimen. Refusal by the employee to sign Step #2 of the alcohol testing form will be noted by the BAT in the remarks section and is considered a refusal to test.

Screening Test

Employee is informed that testing will begin with a screening test. The BAT will open an individually sealed, disposable mouthpiece in ~~veiw~~view of the employee and attach it to the EBT.

The employee will be instructed to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. The BAT will show the employee the result displayed on the EBT or the printed result.

If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required. The BAT and the employee will finish filling out the alcohol testing form. The employee may return to their safety-sensitive position and the test will be reported to the employer as a negative.

Note: Alcohol screens may be performed by certified Screening Test Technicians (STT) using alternative alcohol screening devices approved by the Department of Transportation. The alternative methods may test either breath or saliva. If the screening tests results are 0.02 or greater a confirmation test by a BAT, using an evidential breath testing device, must be performed.

Confirmation Test

If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.

The confirmation test must 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.

The BAT will inform the employee of the need to conduct a confirmation test. The employee will be instructed not to eat, drink, or put any object or substance in his/her mouth. The BAT will also instruct the employee not to belch to the extent possible while awaiting the confirmation test. The BAT will inform the employee that the test will be conducted at the end of the waiting period, even if the employee has disregarded the instructions.

Before the confirmation test is administered, the BAT shall conduct an airblank on the EBT. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second airblank reading is greater than 0.00, the EBT must not be used to conduct the test.

The confirmation test is conducted using the same procedures as the screening test. A new mouthpiece will be used.

If the initial and confirmatory test results are not identical, the confirmation test result is deemed to be the final result.

If the result displayed on the EBT is not the same as that on the printed form, the test will be cancelled, and the EBT removed from service.

The BAT will sign and date the form. The employee will sign and date the certification statement, which includes a notice that the employee cannot perform safety-sensitive duties or operate a motor vehicle if the results are 0.02 or greater. Refusal by the employee to sign the certification statement is not considered a "refusal to test", but it will be noted in the remarks section by the BAT.

The BAT will attach the alcohol test result printout directly onto the alcohol collection form with tamperproof tape (unless the EBT prints the results directly on the form).

Reporting

The BAT will transmit all results to the Designated Employer Representative in a confidential manner. In the event an individual must be removed from safety-sensitive duties as a result of the alcohol test, the BAT will notify the Designated Employer Representative immediately.

Attachment C

Adoption by governing board or highest authority

EXECUTIVE OFFICIAL REVIEWTitle of Document: Revised NTS Substance Abuse Policy Contact Name: LYNCH, FLORINDA G.Program/Division: DIVISION OF GENERAL SERVICESEmail: flynch@navajotransit.com Phone Number: 928-729-4108

<input type="checkbox"/>	Business Site Lease			Sufficient	Insufficient
	1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)				
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/>	Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions				
	1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>



<input type="checkbox"/>	Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications				
	1. Office of Management and Budget:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/>	Navajo Housing Authority Request for Release of Funds				
	1. NNEPA:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/>	Lease Purchase Agreements				
	1. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	(recommendation only)				
	2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/>	Grant Applications				
	1. Office of Management and Budget:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Controller:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

<input checked="" type="checkbox"/>	Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval				
-------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--

	1. Division:		Date: <u>5/22/2017</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	2. Office of the Attorney General:		Date: <u>5/30/17</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<input type="checkbox"/>	Relinquishment of Navajo Membership				
	1. Land Department:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. Elections:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

Sufficient Insufficient

- | | | | | |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. Division: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

- | | | | | |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DNR | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. DOJ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Rights of Way**

- | | | | | |
|------------------------------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Office of the Attorney General: | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. OPVP | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

- | | | | | |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. OPVP | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. NLD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **Assignment of Mineral Lease**

- | | | | | |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. DNR | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. DOJ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

- | | | | | |
|-------------|-------|-------------|--------------------------|--------------------------|
| 1. NLD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. F&W | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. HPD | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Minerals | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. NNEPA | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DNR | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. DOJ | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. OPVP | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

☐ **OTHER:**

- | | | | | |
|----|-------|-------------|--------------------------|--------------------------|
| 1. | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. | _____ | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



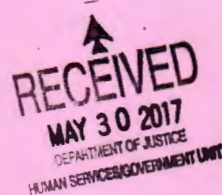
DOJ	
5/30/17	157pm
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	008049
SAS #:	
UNIT:	Hsqw

☐ RESUBMITTAL

*** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE			
DATE OF REQUEST:	5/24/2017	DIVISION:	Division of General Services
CONTACT NAME:	Florinda Lynch	DEPARTMENT:	Navajo Transit System
PHONE NUMBER:	928-729-4108	E-MAIL:	flynch@navajotransit.com
TITLE OF DOCUMENT: Section 164 document #8049: Review and Approval of revised NTS Substance Abuse Policy			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	5/30/17 @ 2:15pm	REVIEWING ATTORNEY/ADVOCATE:	JCM
DATE TIME OUT OF UNIT:	6/2 @ 10:10		
DOJ ATTORNEY / ADVOCATE COMMENTS			
Legally sufficient. <i>[Signature]</i>			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
		Kandis Martino	5/30/17 2:56pm
DOJ Secretary Called: Florinda for Document Pick Up on 6/2 at 10:10 By: <i>[Signature]</i>			
PICKED UP BY: (Print)	DATE / TIME:		

NNDOJ/DRRF-July 2013





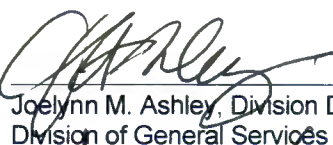
THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT


Memo

To: Section 164 Reviewers

Thru:


Joelynn M. Ashley, Division Director
Division of General Services

From:


Harrison Smith, Delegated Department Manager III
Navajo Transit System

Date: 05/22/2017

Re: Section 164 Review # 8049 – REVISION to NTS Substance Abuse Policy

Navajo Transit System (NTS) is hereby submitting a request for approval of a revision to Navajo Transit System's Substance Abuse Policy. NTS is obligated to have an approved Substance Abuse Policy in compliance with current regulations as a condition of our grant agreement.

NTS's Substance Abuse Policy was previously approved on September 21, 2016. NTS's management staff worked collaboratively with New Mexico Department of Transportation (NMDOT) and NMDOT's Drug & Alcohol compliance consultant, Precision Compliance Inc. ensuring that our Policy is in compliance. Navajo Transit System has finalized a revision to the Substance Abuse policy and Standard Operating forms that meets all current requirements under 49 CFR Part 40 and 49 CFR Part 655 as required under our grant agreement.

We would appreciate your support and approval of this revision to our Substance Abuse Policy. If you should have any questions, please call me. Thank you.

CC: FILE

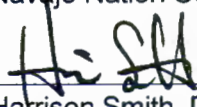


THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

Memo

To: Jonathan Hale, Chairperson
Health, Education, Human Services Committee
Navajo Nation Council

From: 
Harrison Smith, Delegated Department Manager III
Navajo Transit System

Date: 6/07/2017

Re: Sponsorship of Doc #8049 – Revision to NTS Substance Abuse Policy

I am requesting for your services in sponsoring the attached document. Amendments were made to Navajo Transit System Substance Abuse Policy and has been reviewed by Department of Justice. We are in need of your services to present this item to HEHSC for approval.

We would appreciate your sponsorship. If you should have any questions, please contact me at (928) 729-4115 or Florinda Lynch at 928-729-4108. Thank you.

CC: FILE

