

**ADMINISTRATIVE ORDER NO. 87**

Pursuant to the authority granted to the City Administrator in BMCC Section -300, the following POLICY is hereby established as the City of Billings'

**Substance Abuse Policy**  
For the MET Transit Division

Dated this 7th day of December, 2004.

-ss- Kristoff T. Bauer  
City Administrator

# SUBSTANCE ABUSE POLICY

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Date: *December 7, 2004*

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## **1. POLICY**

The City of Billings *MET*ropolitan Transit (MET) is dedicated to providing safe, dependable, and economical transportation services to our passengers. The MET is committed to a drug- and alcohol-free workplace, which protects our most valuable resource--our employees--as well as the health and safety of the public. To meet these goals, it is our policy to:

1. Assure that employees are not impaired in their ability to perform assigned duties in a safe and productive manner;
2. Create a workplace environment free from the effects of drug abuse and alcohol misuse;
3. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;
4. To recognize alcohol and substance abuse as a treatable illness and to encourage employees to seek professional assistance anytime alcohol or drug dependency adversely affects their ability to perform their assigned duties.

Neither this policy nor any of its terms are intended to create a contract of employment or to contain the terms of any contract of employment. This policy is effective December 7, 2004, and *is in addition to* the City of Billings Drug-Free Workplace policy.

## **2. PURPOSE**

The purpose of this policy is to assure employee 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 Transit Administration (FTA) and State regulations governing workplace anti-drug and alcohol programs in the transit industry:

1. 49 CFR Part 655, as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result.
2. 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

3. 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.
4. Sections 39-2-205 through 39-2-211, Montana Code Annotated.

### **3. APPLICABILITY**

This policy applies to all safety-sensitive MET employees, paid part-time employees, contract employees and contractors when they are on transit property or when performing any transit-related safety-sensitive business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work, or when an employee may be scheduled to work (e.g., report drivers).

A safety-sensitive function is any duty related to the safe operation of transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service) and maintenance of a revenue service vehicle or equipment used in revenue service, and any other employee who holds a Commercial Driver's License (CDL) and may perform these functions. A list of safety-sensitive positions is shown in Section 12.

### **4. INFORMATION DISCLOSURE & RECORD KEEPING**

These regulations go to great length to ensure employee privacy and confidentiality in the drug and alcohol screening process. Access to records and knowledge of test results is limited to top management. The FTA regulations state the following circumstances under which information can be released:

1. to a third party only as directed by specific, written instructions of the employee;
2. to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested;
3. to subsequent employer upon receipt to a written request from the employee;
4. to the employee, upon receipt of a written request;
5. to the National Transportation Safety Board during an accident investigation; and
6. to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

All drug and alcohol testing records are kept in a locked file separate from other personnel, payroll and medical files. Negative test results must be kept on file for a minimum of twelve (12) months. Records obtained from previous employers must be kept on file for a minimum of thirty six (36) months. All other records relating to the administration and results of the drug testing program must be retained for five (5) years.

## **5. PROHIBITED SUBSTANCES**

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

### **5.1 Illegally Used or Controlled Substances or Drugs**

Controlled substance means a controlled substance 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 1308.11 through 1308.15. 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. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. The use of any controlled substance while performing transit business is prohibited.

### **5.2 Legal Drugs**

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use by anyone in a safety-sensitive position of any substance which carries a warning label that indicates that 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 duties.

A legally prescribed drug means that an individual has a current prescription or other written approval from a physician for the use of a 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. The misuse or abuse of legal drugs while performing transit business is prohibited.

### **5.3 Alcohol**

The use of beverages containing alcohol or substances (including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body) while performing transit business is prohibited. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

## **6. PROHIBITED CONDUCT**

### **6.1 Manufacture, Trafficking, Possession, and Use**

MET employees will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of an illegal or controlled substance while on transit premises, in

transit vehicles, in uniform, or while on transit business. Employees who violate this provision will be subject to disciplinary action up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

## 6.2 Intoxication/Under the Influence

Any safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition as described in this policy. Employees who fail to pass a drug or alcohol test shall be removed from duty and subject to disciplinary action, up to and including termination; except in cases involving the proper use of legal drugs as stated in paragraph 5.2. 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.

## 6.3 Positive Test Results

An employee is determined to have a confirmed positive drug and/or alcohol test, the employee will be subject to the following disciplinary action defined below.

A **confirmed positive** drug and/or alcohol test is defined as the receipt of a positive result from a laboratory by the MRO, indicating the amount of drugs and/or alcohol present are above the minimum threshold established in 49 CFR Part 655. (...a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater or refusal to submit to a test.

A first offense will require the employee to do the following:

- Meet with a Substance Abuse Counselor through the City's Employee Assistance Program, prior to returning to work.
- Follow all recommendations made by the Substance Abuse Counselor to remain employed by the City of Billings.
- Incur a possible period of suspension without pay at management discretion.
- Submit to a drug/alcohol test and have a negative result prior to returning to work. Any positive results must demonstrate a reduction in the chemical of choice. If the MRO determines the employee has continued to use alcohol or drugs, this would constitute as a second confirmed positive.
- Submit to unannounced follow-up testing for a period of 12-months to 5 years.
- A second offense of a confirmed positive drug and/or alcohol test would result in the termination of employment from the City of Billings.

The above documentation of consequences will remain in an employee's file.

Employees refusing or unreasonably delaying submission of a specimen or who adulterate or substitute a specimen, will be considered as if they have a confirmed positive specimen (as received by the MRO from a laboratory) and will be declared unfit for duty.

An initial dilute specimen will require a second, immediate, new specimen. If the second specimen is negative, the overall result will be negative. If the second specimen is positive, the overall result is a confirmed positive.

If the employee refuses the second test, as stated above, then the overall result will be considered a confirmed positive and the employee will be declared unfit for duty.

Employees who provide a confirmed positive drug or alcohol test for the first time will be required to follow the Substance Abuse Professional's recommendation for treatment. If treatment recommendation is not followed, then the employee will be subject to discharge.

Any employee who provides a confirmed positive drug or alcohol test during the 12-month to five year follow-up unannounced testing period will be considered to have provided their second confirmed positive drug or alcohol test and will be subject to discharge.

Any employee who feels that he or she has an addiction or dependence to drugs or alcohol is encouraged to seek assistance through the City's Employee Assistance Program (phone: 237-3585) free of charge or through their own personal physician. Requests for information concerning such assistance will be confidential. An employee seeking assistance for drug or alcohol dependency may be covered under the City's health care plan. Please review your Plan Document or call EBMS (phone: 245-3575) to determine coverage issues.

#### 6.4 Alcohol Use

No safety-sensitive employee shall 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. 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, during the hours that they are on call or within eight hours following an accident or until undergoing a post accident alcohol test. Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination.

## 6.5 Compliance with Testing Requirements / Refusals

All safety-sensitive employees will be subject to urine drug testing and breath alcohol testing. Any safety-sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty and their termination. Refusal includes, but is not limited to, an inability to provide a sufficient urine specimen in the specimen container or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test. Refusal of a test is considered a positive test. Any employee who refuses to take any drug or alcohol test will be terminated for the first offense.

## 6.6 Treatment Requirements

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Any employee who refuses or fails to comply with requirements for treatment, after care, or return to duty, where applicable, 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, where applicable, their insurance provider. Employees may be allowed to take accumulated sick leave to participate in the prescribed rehabilitation program.

## 6.7 Notifying MET of Criminal Drug conviction

All employees are required to notify MET of any criminal drug statute conviction within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

## 6.8 Proper Application of the Policy

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

# 7. TESTING PROCEDURES

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations and pursuant to 32-2-304 Montana Code Annotated. All safety-sensitive employees are subject to random testing. All safety-sensitive employees shall be subject to testing prior to employment,

for reasonable suspicion, and following an accident as defined in Section 7.3, 7.4 and 7.5 of this policy.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the US Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. A test result deemed a dilute specimen for pre-employment, reasonable suspicion, post accident, random, return-to-duty and follow-up testing will require re-testing. The test will be considered positive if the amounts present are above the minimum threshold established in 49 CFR Part 40, as amended. In instances where there is a reason to believe a safety sensitive employee is abusing a substance other than the five drugs listed above, and such employees have impaired faculties, MET reserves the right to test for additional prohibited substances/drugs using standard laboratory testing protocols.

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). *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 *greater than 0.02 but less than 0.04* will be removed from his/her position for eight hours with no pay. 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.

Any safety-sensitive employee who has a confirmed positive drug or alcohol test or refuses to submit to a test will be terminated for the first offense.

MET affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. No drug or alcohol tests will be administered to an employee by an employee of the City of Billings or management. Employees may be transported to the testing facility by supervisory personnel.

## 7.1 Employee Self-Referrals

Any safety-sensitive employee who voluntarily discloses a substance abuse problem, before a disciplinary matter develops and before being selected for any test, will be subject to return-to-duty and follow-up testing. The employee must be evaluated by a Substance Abuse Professional and pass a return-to-duty test. A return-to-duty test will include testing for both prohibited drugs and alcohol. The employee must be evaluated and released to duty by the Substance Abuse Professional following completion of the

prescribed treatment plan before returning to work. In addition, the employee must complete all requirements of the return-to-work contract as outlined in Section 9. Once allowed to return to duty, an employee will be required to undergo frequent unannounced random urine drug and/or alcohol testing. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year and the number of recommended tests as determined by the Substance Abuse Professional during the remainder of this period. All costs associated with employee self-referrals will be the responsibility of the employee.

Follow-up testing is separate from and in addition to the regular random testing program. Employees subject to follow-up testing will remain in the standard random pool and must be tested whenever their names come up for random testing.

## 7.2 Employee Requested Testing

Any safety-sensitive employee who questions the results of a required drug test under paragraphs 6.2 through 6.7 of this policy may request that an additional test be conducted. This test must be conducted at a different testing 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. All costs for such testing are paid by the employee unless the result of the split sample test contradicts the result of the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the original sample verified test result. Requests after 72 hours will be accepted only if the delay was due to documentable facts that were beyond the control of the employee.

## 7.3 Pre-Employment Testing/Pre-Employment Testing Following Leave

All safety-sensitive position applicants shall undergo urine drug testing immediately following the offer of employment or transfer into a safety-sensitive position. Receipt by MET of a negative drug test result is required prior to employment and before the employee can perform any safety-sensitive duties. Failure or refusal of a pre-employment drug test or a positive pre-employment drug test will disqualify an applicant for employment.

In instances where a person is on temporary leave (i.e., vacation, sick, jury duty) no pre-employment test is required before the individual can resume their safety-sensitive duties. However, if an individual has not performed a safety-sensitive function for 90 consecutive calendar days, regardless of the reason, and the employee has not been in the employer's random selection pool during that time frame, a verified negative test result must be received by MET prior to employee reassignment to a safety-sensitive job function.

## 7.4 Reasonable Suspicion Testing

All safety-sensitive employees may be subject to a fitness for duty evaluation, and urine drug and/or breath testing when there is reasonable suspicion to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective contemporaneous facts and circumstances which are consistent with the short-term observable effects of substance abuse. Examples of facts supporting reasonable suspicion include, but are not limited to the following:

1. Physical signs and symptoms consistent with prohibited substance use;
2. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances;
3. Occurrence of a serious or potentially serious accident that may have been caused by prohibited Substance Abuse or alcohol misuse;
4. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedure.

Reasonable suspicion referrals must be made by supervisors who are trained to detect the signs and symptoms of drug and alcohol use and who reasonably concluded that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or misuse. Alcohol testing under this section shall be completed within two (2) hours of the Supervisor's conclusions.

An employee subjected to reasonable suspicion testing will be removed from duty, with pay, until MET is in receipt of the test results. Future payroll status will be determined after the test results are received.

## 7.5 Post-Accident Testing

All safety-sensitive employees will be required to undergo urine and breath testing if they are involved in an accident associated with a MET vehicle, including operation of its lift, (regardless of whether or not the vehicle is in revenue service) that results in a fatality. This includes all surviving safety-sensitive employees that are on-duty in the vehicles involved in the accident, and any other whose performance could have contributed to the accident. In addition, a post-accident test will be required if a non-fatal accident associated with a MET vehicle, including operation of its lift, (regardless of whether or not the vehicle is in revenue service) that results in injuries requiring immediate transportation to a medical treatment facility, or one or more vehicles incurs disabling damage. Disabling damage is defined as "damage which precludes the departure of a motor vehicle from the scene of an accident in its usual manner after simple repair." This includes damage to vehicles that could have been driven, but would have been further damaged by such movement (i.e., limped away). Disabling damage does not include damage that can be readily fixed on the scene, tire

disablement, headlight or tail light damage, or damage to turn signals, horn or windshield wipers.

Following an accident, the safety-sensitive employees will be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any safety-sensitive employee who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and their employment terminated.

Employees tested under this provision will include not only the operations personnel, but any other covered employees whose performance could have contributed to the accident.

If the employee is fit to return to duty, he/she may do so prior to receipt of test results.

#### 7.6 Random Testing

Employees in safety-sensitive positions will be subjected to random, unannounced testing. The selection of safety-sensitive employees for random testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year. During the course of one full year, the pool of all identified safety-sensitive employees will be tested at the rate of 10% for alcohol and 50% for drugs.

Employees may provide advance, verifiable notice to MET of previously scheduled medical or childcare commitments to ensure a random test is not scheduled for the end of a shift when such a conflict exists.

#### 7.7 Return-to-Duty Testing

Any safety-sensitive employee who voluntarily discloses a substance abuse problem, before a disciplinary matter develops and before being selected for any test, will be subject to return-to-duty and follow-up testing. The employee must be evaluated by a substance abuse professional, and pass a return-to-duty test. The purpose of this procedure is to provide some degree of assurance that the individual is presently free of alcohol and/or any prohibited drugs and is able to return to work without undue concern about continued substance abuse.

A return-to-duty test will include testing for both prohibited drugs and alcohol. The employee must test negative on both a urine drug and alcohol test (below 0.02 for alcohol) and be evaluated and released to duty by the Substance Abuse Professional following completion of the prescribed treatment plan before returning to work. In addition, the employee must complete all requirements of the return-to-work contract as outlined in Section 9. All costs associated with the return-to-duty process will be the responsibility of the employee.

## 7.8 Follow-Up Testing

Once allowed to return to duty, an employee who self refers will be required to undergo frequent unannounced random urine drug and/or alcohol testing. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year and the number of recommended tests as determined by the Substance Abuse Professional during the remainder of this period.

Follow-up testing is separate from and in addition to the regular random testing program. Employees subject to follow-up testing will remain in the standard random pool and must be tested whenever their names come up for random testing.

## 8. EMPLOYMENT ASSESSMENT

Assessment by a SAP or participation in the company's Employee Assistance Program (EAP) does not shield an employee from disciplinary action or guarantee employment or reinstatement with MET.

## 9. RETURN-TO-WORK CONTRACTS

Employees who self-refer and re-enter the workforce must agree to a return-to-work contract. That contract may include (but is not limited to):

1. A release to work statement from the SAP;
2. A negative test for drugs and/or alcohol;
3. An agreement to unannounced frequent follow-up testing for a period of one to five years with a minimum of six tests performed the first year;
4. A statement of expected work-related behaviors;
5. An agreement to follow specified after care requirements with the understanding that violation of the return-to-work contract is grounds for termination.

## 10. TRAINING

1. All employees will receive informational material on drug and alcohol abuse.
2. Each covered employee will receive sixty minutes training.

3. Each supervisor will receive sixty minutes of alcohol awareness and sixty minutes of drug awareness training.

## **11. SYSTEM CONTACT**

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

**Program Manager:**

**Title:** Transit Manager  
**Address:** City of Billings *MET*ropolitan Transit  
1705 Monad Road  
Billings MT 59102  
**Telephone #:** (406) 657-8221  
**Fax #:** (406) 657-8419

**Medical Review Officer (MRO):**

**Names:** St. Vincent Hospital Occupational Health Services  
**Address:** 1233 North 30<sup>th</sup> Street  
Billings, MT 59101  
**Telephone #:** (406) 237-4114

**Substance Abuse Professional:**

**Name:** Behavioral Health Associates  
**Address:** 1101 North 27<sup>th</sup> Street, Suite 201  
Billings, MT 59101  
**Telephone #:** (406) 237-3585

## **12. MET SAFETY-SENSITIVE FUNCTIONS**

Transit Manager  
Transit Operations Supervisor  
Transit Operator  
Transit Service Worker  
Mechanic  
Vehicle Service Technician  
Paratransit Coordinator  
On-Call Driver

Any person who temporarily performs any transit-related safety-sensitive business will be considered safety-sensitive during that time period.

## **13. CHANGES OR MODIFICATIONS**

The City of Billings *MET*ropolitan Transit reserves the right to change, amend or modify any term or provision of this policy and testing program in the future. All personnel will be notified in writing at least 30 days prior to instituting any changes, other than administrative changes.

## **14. ALCOHOL FACTS AND INFORMATION**

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

### **Signs and Symptoms of Use**

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(NOTE: Except for the odor, these are general signs and symptoms of any depressant substance.)

### **Health Effects**

The chronic consumption of alcohol (average of three servings per day of beer (12 ounces), whiskey (1 ounce), or wine (6 ounces) over time may result in the following health hazards:

- Dependency (up to 10% of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Decreased sexual functioning
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54% of all birth defects are alcohol related)

### **Workplace Issues**

- It takes one hour for the average person ( $\approx$ 150 pounds) to process one ounce of an alcoholic beverage from the body
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body
- A person who is legally intoxicated is six times more likely to have an accident than a sober person.

## **15. REASONABLE SUSPICION EVALUATION AND CHECKLIST FORM**

This form is required to be completed by the Supervisor/Official of a safety-sensitive employee as a guideline for the determination to order a drug and/or alcohol test screen for the employee when reasonable suspicion exists, subject to the City of Billings Metropolitan Transit's Substance Abuse Policy. Each Supervisor or official is to independently complete his/her own form in its entirety.

Name of Employee: \_\_\_\_\_

Employee Number: \_\_\_\_\_ Job Title: \_\_\_\_\_

Date of Determination: \_\_\_\_\_ Time of Evaluation: \_\_\_\_\_

Location of employee when reasonable suspicion determination was made:

\_\_\_\_\_

(be specific)

Name of Supervisor completing & filing this form: \_\_\_\_\_

Name of other supervisory personnel at the location at which the determination was made:

\_\_\_\_\_

### **I. CIRCUMSTANCES OCCURRING AT TIME OF EVALUATION**

Safety-sensitive employee is reporting for duty: Yes      No      (circle one)  
 Safety-sensitive employee is already on duty: Yes      No      (circle one)

## II. OBSERVATIONS OF EMPLOYEE'S PHYSICAL CONDITION

Indicate which of the following conditions are evident to you by circling either yes or no and adding any information considered valuable:

<b>Condition</b>	<b>Evident</b>	<b>Not Evident</b>	<b>Additional Information</b>
Slurred speech	Yes	No	
Confusion / disorientation	Yes	No	
Odor of alcohol on breath or person	Yes	No	
Odor of marijuana on breath or person	Yes	No	
Unsteady gait or lack of balance	Yes	No	
Glassy eyes	Yes	No	
Rapid or continuous eye movement or inability to focus	Yes	No	
Drowsiness	Yes	No	
Inattentiveness	Yes	No	
Apparent intoxicated behavior (without the odor of alcohol or marijuana)	Yes	No	
Physical injury. Indicate location on body:	Yes	No	
Tremors or bodily shaking	Yes	No	
Poor concentration	Yes	No	
Runny nose or sores around nostrils	Yes	No	
Very large or very small eye pupils	Yes	No	
Slow or inappropriate reactions	Yes	No	
Additional Comments:			

### III. OBSERVATIONS OF EMPLOYEE'S BEHAVIOR(S)

Indicate which of the following conditions are evident to you by circling either yes or no and adding any information considered valuable:

<b>Condition</b>	<b>Evident</b>	<b>Not Evident</b>	<b>Additional Information</b>
Inability to respond to questions or to respond correctly	Yes	No	
Complaints of racing or irregular heart beating	Yes	No	
Marked irritability	Yes	No	
Aggressiveness (attempts at physical contact)	Yes	No	
Inappropriate laughter, crying, etc.	Yes	No	
Sleeping on the job	Yes	No	
Fainting or repeated loss of consciousness	Yes	No	
Inappropriate job performance and/or violation of City of Billings Metropolitan Transit rule(s)	Yes	No	
Additional Comments:			

#### IV. DETERMINATION OF REASONABLE SUSPICION

Based on the above documented information, I have determined that there is  is not  (circle one) reasonable suspicion for sending \_\_\_\_\_ for FTA drug and/or alcohol screening test.

If "is" is circled, complete the remainder of this form. If "is not" is circled, go to the bottom and complete the last five items on this form.

The drug and alcohol screening tests have been ordered by \_\_\_\_\_.

The drug and alcohol screening tests are to be immediately conducted at:

St. Vincent Healthcare Occupational Health Services:

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Signature of Supervisor conducting the evaluation

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Date

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Title and Printed name of Supervisor conducting the evaluation

## 16. POST ACCIDENT/INCIDENT SUBSTANCE ABUSE TESTING DECISION MATRIX

Employee Name: \_\_\_\_\_

Other employees in vehicle?  Yes  No (check one)

Name(s) of other employees: \_\_\_\_\_  
\_\_\_\_\_

Maintenance Employees Involved?  Yes  No (check one)

Name(s) of other employees: \_\_\_\_\_  
\_\_\_\_\_

Date and Time of Accident: \_\_\_\_\_

Specific location of accident: \_\_\_\_\_  
\_\_\_\_\_

FTA Post-Accident Drug / Alcohol Test Criteria (check all that apply)

- Fatality
- Injury(ies) requiring treatment away from the scene in any vehicle involved
- Disabling damage to any vehicle involved in the accident

**Decision to Alcohol Test?**  Yes  No (check one)

If No, Check the reason why:

- Did not meet FTA criteria
- Employee(s) completely discounted as contributing factor
- Other: \_\_\_\_\_  
\_\_\_\_\_

If Yes: Alcohol Test Date \_\_\_\_\_ Alcohol Test Time \_\_\_\_\_

Was alcohol test completed within 2 hours of time of accident?  Yes  No

If no, explain why: \_\_\_\_\_  
\_\_\_\_\_

Was alcohol test completed within 8 hours of time of accident?  Yes  No

If no, explain why: \_\_\_\_\_

---

**Decision to Drug Test?**  Yes  No (check one)

If Yes: Drug Test Date \_\_\_\_\_ Drug Test Time \_\_\_\_\_

Was drug test completed within 32 hours of time of the accident?  Yes  No

If no, explain why: \_\_\_\_\_

Comments (add here any other relevant information that is not included above):

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Signature of Supervisor

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Printed Name of Supervisor

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Date

## 17. POST ACCIDENT CHECKLIST FOR FEDERAL DRUG AND ALCOHOL TESTING

Section 655 of the federal regulations require post-accident testing following an accident if one or more of the following conditions are met.

Check all that apply:

- Accident resulting in a fatality
- Accident resulting in bodily injury and in which medical treatment is immediately received away from the scene of the accident.
- Accident resulting in disabling damage to one or more vehicles involved in the accident and one or more vehicles is/are towed away from the scene.

Disabling damage precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. Includes damage to motor vehicles that could have been driven, but would have been further damaged if so driven; but excludes damage which can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available, head lamp/taillight damage, damage to turn signals, horn or windshield wipers.

Supporting documentation used to determine post-accident drug/alcohol testing MUST accompany the drug and alcohol referral form and be forwarded to the Drug and Alcohol Program Manager or Coordinator. Acceptable types of documentation include:

- Post-accident Checklist;
- Accident Report; and/or
- Supervisor's Report

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Supervisor's Signature

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Date

## **Instructions to Employees for Collection Process of Specimen for Drug Testing Purpose**

1. Report to the specimen collection site immediately after notification to report. Refusal to report for testing or refusal to cooperate with the testing process will result in termination or denial of employment for applicants.
2. Provide the collection site technician with an official picture identification card (i.e., driver's license, employee I.D.).
3. Check your belongings with the technician including purses, briefcases, and bulky outerwear (sweaters, coats, jackets, vests, hats, etc.). Remove the contents of your pockets.
4. Rinse your hands with clear clean water and dry. Do not use soap.
5. Go to the privacy enclosure and provide a specimen in the collection cup provided. At least 45 milliliters of urine is required. If an insufficient amount is provided, you will be required to stay at the collection site until the required amount is provided (up to 3 hours). If after 3 hours you have been unable to provide a sufficient specimen, the test will be considered a test refusal unless a medical evaluation reveals a valid medical explanation for the insufficient volume.
6. Do not attempt to tamper with the specimen, make substitutions, or adulterate the specimen in any way. The specimen will be visually inspected for unusual color, odor, and sediment. The temperature of the specimen will be measured and must fall within acceptable range. If the technician suspects tampering or the specimen's temperature will be required to provide a second sample under the direct observation of a same-gender technician. Tampering with a specimen will be considered a test refusal.
7. Give the specimen to the technician and observe the sealing of the container (s). Initial the label verifying that the specimen is yours.
8. Complete the appropriate parts of the "Chain of Custody" form. You will be given a copy at the end of the collection process.
9. The results of the laboratory analysis will be forwarded to the employer's Medical Review Officer (MRO). If the lab results are negative, the MRO will notify your employer. If the lab results are positive, the MRO will contact you at the phone number(s) you provided to give you the opportunity to discuss the test results and to submit information concerning the legitimate medical explanation for the presence of the substance identified.

Please direct any questions you may have about the procedure to the collector or your employer's drug and alcohol contact person.

## Information Request Consent Form

I, \_\_\_\_\_ hereby allow City of Billings *MET*ropolitan Transit to contact my former DOT-regulated employer(s) from the past two years, to request the following information in accordance with 49CFR part 40.25.

1. Alcohol test results of 0.04 or higher alcohol concentration. 49CFR part 40.25 (b)(1)
2. Verified positive drug tests. 49CFR part 40.25 (b)(2)
3. Refusals to be tested (including verified adulterated or substituted drug results. 49CFR part 40.25 (b)(3)
4. Other violations of DOT agency drug and alcohol testing regulations. 49CFR part 40.25 (b)(4)
5. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). 49CFR part 40.25 (b)(5)

Please list former employer with contact information.

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FAILURE TO PROVIDE WRITTEN CONSENT, INCLUDING FORMER EMPLOYER INFORMATION AND SIGNATURE, WILL RESULT IN YOU BEING DISQUALIFIED FOR A SAFETY SENSITIVE POSITION WITH (NAME OF EMPLOYER), AS PER 49CFR PART 40.25 (a)

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_

# RETURN TO WORK CONTRACT

BETWEEN

CITY OF BILLINGS METROPOLITAN TRANSIT

And

\_\_\_\_\_  
City of Billings METropolitan Transit agrees that \_\_\_\_\_ has completed a program of rehabilitation prescribed by a qualified and credentialed Substance Abuse Professional (SAP) as required by the Federal Transit Administration, has tested negative with regard to Return-to-Duty drug from the SAP. Employee IS REQUIRED TO AGREE to this Return-to-Work Contract, and therefore will be immediately eligible for full reinstatement to the safety-sensitive position he/she held prior to his/her suspension on \_\_\_\_\_ of indefinite length, in conjunction with the SAP, has developed terms for \_\_\_\_\_ 's return-to-work, as outlined below, which ARE REQUIRED TO BE STRICTLY ADHERED TO and followed by the employee, \_\_\_\_\_.  
\_\_\_\_\_.

## TERMS OF RETURN-TO-WORK

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(The terms specified by the SAP which are in full concert with the requirements imposed by the Federal Transit Administration in the regulations shall be listed here in sufficient detail to be absolutely clear to all involved parties.)

The following statement of expected work-related behaviors ARE REQUIRED TO BE strictly adhered to and followed by employee \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The employee understands that the SAP has directed the transit system to adhere to a program of follow-up testing. This program may have a duration of not more than 5 years, and the testing will be as frequent as the SAP determines to be necessary (and which will be a least 6 tests in the first 12 months back to work), and the program may include testing for either or both drugs and alcohol. The employee agrees to promptly report for follow-up testing when directed to do so by the transit system.

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(employee signature)

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(signature of MET's designated representative)

Employee: \_\_\_\_\_  
(Print employee name)

City of Billings METropolitan Transit

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(Signature of witness) (Signature of witness)

Witness: \_\_\_\_\_ Witness: \_\_\_\_\_  
(Print name of witness) (Print name of witness)

Date: \_\_\_\_\_ Date: \_\_\_\_\_  
(month, day, year) (month, day, year)

## **CERTIFICATION OF SUPERVISOR TRAINING**

As a Supervisor responsible for determining when an employee should submit to Reasonable Suspicion and Post-Accident Drug and Alcohol Testing, I hereby certify that I have successfully completed 60 minutes of training on drugs and 60 minutes of training on alcohol.

Employee Name: \_\_\_\_\_

Employee SSN or ID #: \_\_\_\_\_

Name of Drug Training Course: \_\_\_\_\_

Date of Training Course: \_\_\_\_\_

Employee Signature Certifying Drug Training:

\_\_\_\_\_  
Date: \_\_\_\_\_

Instructor Signature Certifying Drug Training:

\_\_\_\_\_  
Date: \_\_\_\_\_

Name of Alcohol Training Course: \_\_\_\_\_

Date of Alcohol Training Course: \_\_\_\_\_

Employee Signature Certifying Alcohol Training:

\_\_\_\_\_  
Date: \_\_\_\_\_

Instructor Signature Certifying Alcohol Training:

\_\_\_\_\_  
Date: \_\_\_\_\_

## **ACKNOWLEDGEMENT AND CERTIFICATION OF RECEIPT OF POLICY AND PROCEDURES**

I hereby acknowledge and certify, as a safety-sensitive employee of the City of Billings *MET*ropolitan Transit that I have received a copy of the Substance Abuse Policy, which was approved by the City Administrator via Administrative Order on \_\_\_\_\_, 2004.

I have also viewed the sixty minute videotape on \_\_\_\_\_ which was designed to familiarize me with the Federal Transit Administration's Drug and Alcohol regulations.

I understand that I am responsible for familiarizing myself with the information contained herein and understand that it constitutes the official policy of *MET* and that I am governed by it.

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Employee Signature

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Employee Name (Please Print)

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Date

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Witness Signature

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Printed Name of Witness

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Date

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Printed Title of Witness