



U.S. Department
of Transportation
**Federal Transit
Administration**
Office of Safety and Security

FTA Drug And Alcohol Regulation *Updates*

Fall 2002

Issue 23

Introduction....

The Federal Transit Administration (FTA) published its revised rule on prohibited drug use and the prevention of alcohol misuse (49 CFR Part 655) on August 1, 2001. The FTA published the revised *Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit* to provide a comprehensive overview of the regulations.

Since the *Guidelines* were published, there have been numerous amendments, interpretations, and clarifications to the Drug and Alcohol testing procedures and program requirements.

This publication is being provided to update the *Guidelines* and inform your transit system of these changes. This Update is the twenty-third in a series.

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Evaluation Concludes Benefits Outweigh Cost

A strategic goal of the Federal Transit Administration is to “reduce the number of transit-related fatalities, injuries, and incidents.” In an effort to determine if the drug and alcohol testing program has contributed to the achievement of this goal, the FTA conducted an evaluation of the effectiveness of the program in relation to its costs.

The evaluation conducted by the Volpe National Transportation Systems Center was based primarily on empirical knowledge and performance of the FTA substance abuse initiatives including FTA audit results, the annual Drug and Alcohol Management Information System (DAMIS) report results and safety data from the National Transit Database (NTD). The evaluation included empirical data from the five-year period from 1995 to 1999.

In general, the evaluation found that the FTA drug and alcohol testing program contributed significant economic benefits to both the transit industry and society as a whole by effectively enforcing the regulations. Over the five-year period, the program cost the FTA and the transit industry \$154 million while providing overall societal benefits totaling \$1.161 billion resulting in a net economic benefit of \$1.007 billion. In addition, the evaluation found that the program assisted the transit industry avoid an estimated 596 accidents, saving 5 lives and avoiding 524 injuries.

Over the five-year period, 17,483 transit employees were found to use illegal drugs or misuse alcohol through the FTA testing program. If not identified through the FTA drug and alcohol testing program these employees would have incurred a total societal economic cost in 1999 of \$343 million. Over the five year period, 7,102 applicants tested positive on pre-employment tests, 6,979 employees tested positive on random

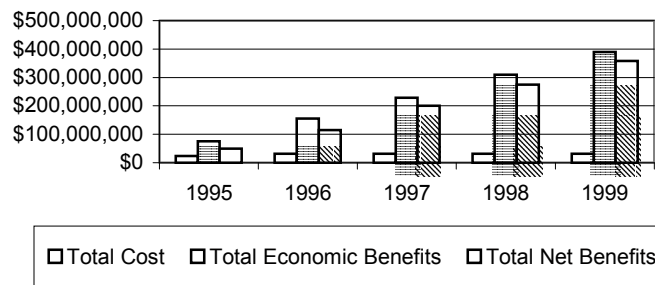
tests, 805 employees tested positive on reasonable suspicion tests, 1,170 employees tested positive on post-accident tests, and 1,427 employees refused to take a test.

Even though systems with a second chance policy spent \$4.4 million for additional testing, administration, and recidivism costs, this was more than offset by the \$17.6 million savings in new employee training costs. The evaluation also concluded that 1,926 individuals were deterred from using drugs or misusing alcohol due to the presence of the testing program resulting in a total societal economic cost saving of \$38 million in 1999 alone. If as a result of the test these individuals stopped using illegal drugs or misusing alcohol, the total societal economic savings in 1999 would amount to \$19,575 per year per individual.

When compared to initial cost/benefit projections made prior to the implementation of the regulations, the total transit industry cost for the program is less than expected and the benefits are nearly double the original expectations. In addition, drug use and alcohol use is decreasing and the program has “consistently and measurably continued to mitigate abusers through termination and rehabilitation as well as deterring further potential drug use and alcohol misuse.” As a result, the program has generated significant economic and public safety benefits.

The evaluation was published in a report, “FTA Drug and Alcohol Program Assessment,” in October 2002. The report can be obtained through the National Technical Information Service (FTA-MA-26-5010-02-2), or through the FTA Clearinghouse by contacting ThompsonA@volpe.dot.gov, calling (617) 494-2108 or at transit-safety.volpe.dot.gov/publications/substance/DAPA/DAPA.pdf.

Total Drug and Alcohol Program Costs, Benefits, and Net Benefits by Year



FOR YOUR INFORMATION

Where To Find?.....

49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

August 9, 2001
Federal Register Vol. 66
Pages 41996 - 42036

Notice of Interpretation:

April 22, 2002
Federal Register Vol. 67,
Pages 19615-19616
Primary Topic: FTA/USCG
regulation applicability to
ferry boats.

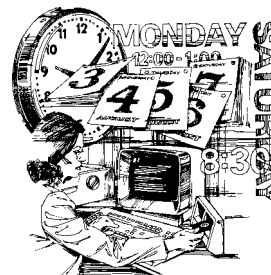
The information presented on this page should be used to update Chapters 1 and 6 of the revised Implementation Guidelines.

2003 Random Testing Rates Remain The Same

The drug and alcohol random testing rates for employers subject to FTA drug and alcohol testing rules will remain the same for calendar year 2003. Thus, random drug tests must be conducted at a **fifty** percent rate and random alcohol tests must be conducted at a **ten** percent rate.

The random rates are established each year based on the previous two-year industry-wide test results. The industry test results are determined from the MIS reports submitted each year by individual FTA covered employers chosen to report. The verified positive drug test result for the industry in 2000 was 1.04 and the positive drug test result for 2001 was 0.98. For the drug test random rate to be lowered to twenty-five percent, the industry-wide positive result must be lower than 1.000 for two consecutive years. Since only one year was below 1.000, the 2003 rate remains at fifty percent. The industry-wide violation rate for random alcohol tests in 2000 was 0.15 and the violation rate for 2001 was 0.18. Since both years' rates are below 0.5, the alcohol random testing rate will remain at ten percent.

The official FTA notice of the drug and alcohol random test rates for 2003 will soon be published in the Federal Register and on FTA's website at transit-safety.volpe.dot.gov.



FTA Resource Materials Available

FTA continues its efforts to be responsive to the needs of its recipients and to provide meaningful resource materials, technical assistance and training workshops to aid grantees with the development of effective, compliant drug and alcohol testing programs.

The most recent publication, *Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit (Revised 2002)* is available online in a PDF file from FTA's website at transit-safety.volpe.dot.gov/Publications/Default.asp. You may also request a hardcopy online at the same Internet address or by contacting the FTA Clearinghouse by emailing ThompsonA@volpe.dot.gov or calling (617) 494-2108. This publication provides a comprehensive overview of the regulations. The *Best Practices Manual* published earlier this year, is a companion manual to the *Guidelines* and can be obtained through the same manner.

The *Reasonable Suspicion Supervisor Training* video is now available on the FTA website at transit-safety.volpe.dot.gov/Top_Level_Pages/WhatsNew.asp. This 23-minute video demonstrates the manifestation and behavioral cues of drug use and alcohol misuse, and the procedures supervisors should use to make fair and reliable reasonable suspicion determinations. A copy of this training video with corresponding leader's guide can be obtained through the FTA Clearinghouse sited above.

The *FTA Prescription and Over-the-Counter Medications Toolkit* will go to press by the end of the year with hardcopy distribution

expected soon thereafter. The *Toolkit* provides sample policies, procedures, and training materials to assist transit systems develop effective programs that address the public safety hazards associated with the use of prescription and over-the-counter medications. To request a copy, contact the FTA Clearinghouse as directed above.

The FTA Office of Safety and Security has also established a "What's New" mailing list that interested parties can subscribe to free of charge. When you sign up for the service you designate areas of interest to you (e.g., safety, security, training and conferences, etc.). As information that pertains to your area of interest becomes available, you will automatically receive an e-mail notification. You may subscribe to this service through the FTA website listed previously.

The FTA is also providing a series of briefing sessions on Part 655 that will be held at various locations throughout the country. The sessions will update participants on regulatory changes, agency best practices, and guidance on how to deal with prescription and over-the-counter medications. In 2003, sessions will be held in Jacksonville, FL on February 11; Orlando, FL on February 13; Hickory, NC on March 11; Philadelphia, PA on April 24; Beloit, WI on May 7 (note new date); and Fort Worth, TX on May 13. To register for a session, contact the conference office at (617) 494-3798, or at e-mail address Whalley@volpe.dot.gov.

FOR YOUR INFORMATION

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Service Agent Training Deadlines Near

The revised 49 CFR Part 40 that became effective on August 1, 2001 specified training requirements for service agents providing testing services under the USDOT drug and alcohol testing program. Service agents with training requirements include urine specimen collectors, breath alcohol technicians, screen test technicians, medical review officers, and substance abuse professionals. The regulation outlined the content of the required training and specified the dates by which the initial training must occur. These deadlines are soon approaching.

The training requirements for collectors (Part 40.33) states that all collectors must receive qualification training that addresses all steps necessary to complete a collection correctly including problem collections, fatal flaws and corrective actions. Collectors must also demonstrate proficiency by completing five consecutive error-free mock collections—two of which are uneventful, one with insufficient volume, one temperature out of range, and one where the employee refuses to sign. The collector's demonstration must be monitored and evaluated by a qualified instructor. The rule stipulates that all individuals that served as collectors before August 1, 2001 have until **January 31, 2003** to complete the training, while all individuals becoming collectors after August 1, 2001 must receive the training prior to performing collector duties. Thus, by the end of January, all collectors conducting collections under the USDOT rule must have completed the training and be able to provide documentation of the fact.

Part 40.213 specifies the training requirements for breath alcohol technicians (BAT) and screen test technicians (STT). BATs/STTs must undergo qualification training and demonstrate proficiency prior to conducting any testing under the USDOT regulations. Thus, all BATS and STTs currently performing these duties must have completed the training and be able to provide corresponding documentation. The new rule added a provision that requires all BATs and STTs to complete refresher training every five years. Thus, all BATs and STTs that completed qualification training before January 1, 1998 must complete refresher training by **January 31, 2003**.



Medical Review Officers (MRO) are required to take a formal training course and are required to pass an examination administered by a nationally recognized MRO professional certification board (Part 40.121). Individuals that served as MROs prior to August 1, 2001 have until **January 31, 2003** to meet the qualification training requirements and pass the examination. Individuals that become MROs after August 1, 2001 are required to meet these requirements prior to performing any MRO functions. Thus, by the end of January, all MROs must have completed the initial qualifications training and passed the exam.

Substance Abuse Professionals are also required to complete initial qualifications training and successfully complete an examination by a nationally recognized professional organization. The deadline to meet these requirements is December 31, 2003. Even though a year away, this deadline could be problematic as no organization has yet been able to develop a certifiable examination.

As a recipient of FTA funds, you are responsible for the overall compliance of your drug and alcohol testing program and are responsible for the oversight of service agents. It is your responsibility to ensure these individuals have met the training requirements by the specified deadlines. Part 40 requires that all service agents maintain documentation. This documentation must be provided to DOT agency representatives, employers, and third party administrators upon request. Therefore you may request documentation of compliance for inclusion in your files.

Since the **January 31, 2003** deadline is fast approaching, it is highly recommended that at a minimum you have a dialog with each of your service agents and get an up-to-date assessment of compliance status. Service agents should also be put on notice that individuals not meeting these requirements will no longer be able to provide services under your FTA drug and alcohol testing program. If your service agents are unable or unwilling to comply, you must find alternative ways to meet the testing requirements.

Where To Find?.....

49 CFR Part 40, Procedures for Transportation Workplace Drug Testing Programs

Revised:

December 19, 2000
Federal Register Vol. 65,
Pages 79462-79579.
Primary Topic: Procedures for
Transportation Workplace Drug
and Alcohol Testing Program
Revised Final Rule
(49 CFR Part 40)

Technical Amendments:

August 1, 2001
Federal Register Vol. 66
Pages 41943-41955
Primary Topic: Clarifications
and Collections to Part 40;
Common Preamble to Modal
Rules

Notice of Proposed Rulemaking

September 30, 2002
Federal Register Vol. 67
Pages 61306-61313
Primary Topic: MIS
Reporting

HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs Notice of Proposed Rulemaking:

August 21, 2001
Federal Register Vol. 66
Pages 43876-43882
Primary Topic: Validity
Testing

The information presented on this page should be used to update Chapter 5 of the revised *Implementation Guidelines*.

MIS REPORTING

Where to Find?

DHHS Labs

The current list of DHHS certified labs is published the first week of each month and is printed in the Federal Register under the Substance Abuse and Mental Health Services Administration heading (SAMHSA). Only those labs certified can be used for FTA drug testing. The list should be checked monthly as new labs are being added and others are being removed.

Website location: <http://www.health.org/workplace>.

To verify the certification status of laboratory, DHHS has established a telephone HELPLINE (800) 843-4971.

The information presented on this page should be used to update Chapter 10 of the revised Implementation Guidelines.

One DOT MIS Form Proposed

On September 30, 2002 the Department of Transportation's (DOT) Office of Drug and Alcohol Policy Compliance (ODAPC) published a notice in the Federal Register (Vol. 67, No. 189, pages 61306-61313) proposing to revise the Management Information System (MIS) forms currently used within the six DOT operating administrations for submission of annual drug and alcohol program data. The Federal Transit Administration (FTA) is one of the modal administrations covered under the proposed rule. The purpose of the proposed provision is to standardize the reporting process between modes, reduce the data reporting burden on transportation employers and streamline the annual reporting procedure through the use of a one-page MIS data collection form.

The one page form will include a single set of instructions for all transportation employers regardless of mode. Not all data elements are relevant to all modes; consequently some employers will need to omit data elements that do not apply to their appropriate operating administration. These reporting differences will be highlighted in the corresponding instructions. The revised MIS form and corresponding instructions will subsequently be incorporated into Part 40.

The new form will capture information on the employer's identity, number of covered employees, number of tests conducted by testing

category, drug test results by testing category, positive drug test results by substance, alcohol test results by category (<0.02, 0.02-0.39, ≥4.0), test refusals by type of refusal and cancelled tests.

The FTA's current MIS reporting procedure includes a long version and an EZ version of an alcohol reporting form and a drug reporting form. By converting to the proposed DOT MIS one-page form, transit employers will no longer be required to report the number of people denied employment due to a positive test result, number of employees and supervisors trained, number of accidents with a positive drug or alcohol test result, number of fatalities with a positive drug or alcohol test result, number of persons testing positive for both drugs and alcohol, actions taken for other alcohol rule violations, number of persons returned-to-duty following a positive drug or alcohol test result, and funding source information.

At the conclusion of the comment period ending November 14, 2002, eleven comments were received; nine in favor and two opposing the one DOT MIS form. Given the support for the one DOT MIS form, the rule is expected to be made final with minor modifications. However, the switch will not go into effect until the 2003-reporting year. Therefore, the same MIS Reporting forms, selection process and Internet reporting processes implemented last year will be in effect for the 2002 reporting year.



2002 MIS Reporting Process Unchanged

The new one-page DOT MIS form will not go into effect until the 2003-reporting year. Consequently, all covered employers are still required to complete an annual MIS report using forms published as Appendix A of Part 655 for the 2002-reporting year. Only those employers who are randomly selected, however, are required to submit the report to FTA. The employers will be selected using a stratified sampling procedure that chooses from all transit agencies that receive

FTA funding.

Each of the selected employers will be sent a notification and reporting package shortly after the first of the year. The selected employers may submit their reports using the forms included in their notification package. Responses should be sent to the FTA Drug and Alcohol MIS Project Office, USDOT/Volpe Center, DTS-781, 55 Broadway Kendall Square, Cambridge, MA 02142-1093. Selected employers also have the option

to submit their responses on the Internet. Corresponding procedures for internet reporting will be provided in the notification package. The reports must be submitted to FTA no later than March 15, 2003. Questions may be directed to the FTA Drug and Alcohol MIS hotline at (617) 494-6336.

Rx & OTC Medications

Over-the-Counter Medications—Are They Safe?

Over-the-counter (OTC) medications can be found in nearly every American household. OTCs are medicines the U.S. Food and Drug Administration decides are safe and effective for use without a doctor's prescription. These non-prescription medications are used to treat a wide-range of illnesses and injuries.

Many OTCs were initially available by prescription, but have been reclassified as OTCs because the FDA determined these drugs were safe enough to be sold directly to consumers. This does not mean, however, that their use is risk free. In many cases, the dosage strengths and ingredients remained the same as their prescription counterparts. By increasing the accessibility to these medications, individuals are allowed to take a more active role in their health care. However, with this freedom to make important health care decisions comes a greater responsibility to become better informed about self-care.

To become better informed, you must read and understand the information on OTC labels. The FDA requires all OTCs to have information listed in the same order, arranged in an easy to read, consistent style with easy to understand words. OTC labels provide the following information:

Active Ingredients: The therapeutic substance in the product and the amount of active ingredient per unit. This is the chemical compound in the medicine that works with your body to bring relief to your symptoms. It will always be the first item on the label. If taking more than one medication, be sure to compare the active ingredients to be sure you are not double dosing by getting the same active ingredient in more than one medication.

Purpose: Product action or category (i.e., antihistamine, antacid, cough suppressant).

Uses: Lists only the symptoms or diseases the product will treat or prevent. Sometimes referred to as "indications." The product should not be used to treat any other symptom or illness unless directed to do so by a physician.

Warnings: This section informs you of when not to use the product or when to stop taking the product. Lists conditions that may require advice from a doctor. Lists possible interactions or side effects. This section will tell you what other medications, foods or situations to avoid (such as driving) when taking this medication. Provides guidance for pregnant or breast-feeding mothers, and cautions for children.

Directions: Provides directions on how much to take, how to take it, how often and how long to take it. The directions may vary by age category. Follow the dosage requirements as recommended on the label. Do not take higher doses or take them for longer periods of time than recommended.

Other Information: How to store the OTC will be listed here, as well as information on certain ingredients such as the amount of calcium, potassium, or sodium contained in the product. Any other important information about the product will also be listed here.

Inactive Ingredients: Chemical compounds found in the medicine such as binders, colors, preservatives or flavoring that have no effect on your body.

Labels also provide the expiration date for the medicine. OTCs should never be used after the expiration date. Most manufacturers also provide a toll-free number to call if you have questions, comments or problems with the medication.

Be sure to read the label each time you purchase a product. Even though products from the same brand family may look alike, it doesn't mean they are meant to treat the same conditions or include the same ingredients. Manufacturers or OTC medicines may also make changes to their products or labeling changing ingredients, changing dosages, and/or adding warnings. Likewise, competitors packaging is often designed to look like another brand and are placed on the shelf in close proximity making it easy to mistakenly select the wrong product. OTCs are also often offered in several strengths. Knowing exactly which active ingredients we need, what strength is appropriate (i.e., regular, extra-strength, maximum strength), and the mode of administration (i.e., tablets, capsules, gel caps, liquid) is confusing. Given so many choices, it is difficult to know what to take. If you need assistance, make sure you talk to a doctor, nurse, or pharmacist.

Where to Find?

Conforming Products List

Evidential Breath Testing (EBT) Devices

July 21, 2000

Federal Register Vol.65

Pages 45419 - 45423

Primary Topic:

Conforming Products List (CPL)

Website location: www.nhtsa.gov/people/injury/alcohol

Note: This list will be updated periodically.

Non-evidential Testing Devices

May 4, 2001

Federal Register Vol.66

Pages 22639 - 22640

Primary Topic: Initial Alcohol Screening Devices

Note: This list will be updated periodically.

The information presented on this page should be used to update Chapter 5 of the revised Implementation Guidelines.

Resource Materials

Who Should Be Receiving This Update?

In an attempt to keep each transit system well informed, we need to reach the correct person within each organization. If you are not responsible for your system's Drug and Alcohol program, please forward this update to the person(s) who is and notify us of the correct listing. If you know of others who would benefit from this publication, please contact us at the following address to include them on the mailing list. This publication is free.

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FTA home page: www.fta.dot.gov

FTA Office of Chief Counsel: www.fta.dot.gov/office/counsel

FTA Office of Safety & Security: <http://transit-safety.volpe.dot.gov>

FTA Letters of Interpretation: www.fta.dot.gov/library/legal

DHHS-Certified Laboratories: Center for Substance Abuse Prevention: www.health.org/labs/index.html

FTA, Office of Safety and Security: (202) 366-2896

Best Practices Manual: FTA Drug & Alcohol Testing Program

Drug and Alcohol Consortia Manual

Drug and Alcohol Testing Results: 1995, 1996, 1997, 1998, 1999 and 2000 Annual Reports

Random Drug Testing Manual

Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit, Revised 2002

Identification of Drug Abuse and/or Alcohol Misuse in the Workplace: An Interactive Training Program

USDOT Drug and Alcohol Documents FAX on Demand: 1 (800) 225-3784

USDOT, Office of Drug and Alcohol Policy and Compliance: (202) 366-3784

Urine Specimen Collection Procedures Guideline

Substance Abuse Professional Guidelines

Produced by:	Published by:	Edited by:	Illustrated by:
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