

# LRGVDC

## Transit Services Department

### Drug & Alcohol

### Free Workplace Policy



LRGVDC Board of Directors

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*Lower Rio Grande Valley Development Council*

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# LRGVDC TRANSIT SERVICES DEPARTMENT DRUG/ALCOHOL-FREE WORKPLACE POLICY

## 1.0 POLICY STATEMENT

The Lower Rio Grande Valley Development Council (LRGVDC) Transit Services Department – Valley Metro is committed to promoting the safety and well-being of its employees, passengers, motorists and pedestrians. To ensure that transit service is delivered safely, efficiently and effectively, each employee has the responsibility to perform his/her duties in a safe, conscientious, and courteous manner.

A drug/alcohol-free workplace is essential to creating a safe environment for employees and the public while providing transit services. LRGVDC's Transit Services Department – Valley Metro is committed to providing a drug/alcohol-free workplace through the enforcement of the regulations issued by the Federal Transit Administration (FTA). In February 1994, the Federal Transit Administration (FTA) published two regulations prohibiting drug use and alcohol misuse by transit employees and required that transit agencies test for prohibited drug use and alcohol misuse. In August 2001, these regulations were updated and consolidated into one regulation. The new regulation is 49 CFR Part 655, *as amended*, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations". In addition, the U.S. Department of Transportation (DOT) issued 49 CFR Part 40, *as amended*, *Procedures for Transportation Workplace Drug and Alcohol Testing Programs* which describes the testing procedures to be followed. A complete copy of regulation Part 49 CFR Part 40, *as amended* will be made available to employee upon request.

## 2.0 PURPOSE:

In order to meet its public safety responsibilities and to comply with the requirements of the above laws and regulations, including the requirements of the FTA and State regulations regarding the prevention of prohibited drug use and misuse of alcohol in transit operations, LRGVDC's Transit Services Department – Valley Metro has adopted the following Drug/Alcohol-Free Workplace Policy *and a copy of this policy will be distributed to each covered employee.*

### **3.0 DRUG AND ALCOHOL DESIGNATED EMPLOYER REPRESENTATIVE (DER)**

Any questions regarding this policy or any aspect of LRGVDC's Transit Services Department – Valley Metro Substance Abuse Program should be addressed to the following transit system representatives:

Drug & Alcohol Program Manager (DAPM):

**Maribel Contreras**

**Assistant Director**

**~~Sarah Dierlam~~**

**Manager-I**

510 S. PLEASANTVIEW DR.

WESLACO, TEXAS 78596

1-800-574-8322

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Designated Employer Representative (DER):

Dora Cruz

Program Specialist I- **Risk**

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### **4.0 SAFETY- SENSITIVE FUNCTIONS**

The Federal Transit Administration (FTA) has determined that safety-sensitive functions are performed by those who:

1. Operate revenue service vehicles, whether or not the vehicle is in revenue service.
2. Operate non-revenue service vehicles that require drivers to hold a Commercial Driver License (CDL).
3. Control dispatch or movement of a revenue service vehicle.
4. Maintain revenue service vehicles or equipment used in revenue service. (The rule applies to all maintenance contractors who stand in the shoes of an urbanized system serving a population of 200,000 or more and who perform engine repair, revenue service repair, equipment repair, and component rebuild/overhaul).
5. Carry a firearm for security purposes.

### **5.0 SAFETY SENSITIVE POSITIONS**

Safety sensitive position-a duty position or job category which requires the performances of a safety-sensitive function(s) such as those job titles listed below:

1. Director II
2. Assistant Director ~~– Maintenance & Operations~~
3. ~~Assistant Director – Grants/Compliance/ Planning/ Mobility~~
4. Program Specialist I - **Risk**
5. Supervisor II – Maintenance
6. Customer Service Rep. I
7. Motor Vehicle Tech. III
8. Motor Vehicle Tech. II

9. Motor Vehicle Tech. I
10. Supervisor II – Operations
11. Case Manager III – ADA Coordinator
12. Program Supervisor I – Urban Area
13. Program Supervisor I – Small Urban & Rural
14. Customer Service Rep. I – Mobility
15. Customer Service Rep. I – Dispatcher
16. Vehicle Driver III
17. Vehicle Driver II
18. Vehicle Driver I
19. Vehicle Driver – Non CDL
20. Program Supervisor II – Planning & Mobility
21. Program Specialist III – Large Urban
22. Planner II

## **6.0 PARTICIPATION AS A REQUIREMENT OF EMPLOYMENT**

Every employee of the LRGVDC's Transit Services Department – Valley Metro working in a job classified as a safety-sensitive position must participate in the employer's prohibited drug and alcohol testing program. *All covered employees are required to submit to drug and alcohol tests conducted in compliance with 49 CFR Parts 40 & 655, as amended.* Participation in this program is a condition of employment with LRGVDC's Transit Services Department Valley Metro

## **7.0 PERIOD OF COVERAGE AND PROHIBITED BEHAVIOR**

An employee must not consume alcohol while performing a safety-sensitive function (655.32). Consumption of Alcohol is prohibited:

1. Four hours prior to performing a safety-sensitive function (655.33).
2. Eight hours following an accident unless the employee has already undergone a post-accident test (655.34).
3. Employees are also prohibited from consuming alcohol during the hours the employee is On-call (655.33(b)).

A blood alcohol concentration of 0.04 or greater while on duty, while performing a safety-sensitive function, is considered a positive test result (655.31). Employees with an alcohol concentration of 0.02 or greater, but less than 0.04 will not be allowed to perform or continue to perform safety-sensitive functions until a subsequent test measures less than 0.02, or the employee has been removed from duty for at least 8 hours. Use and ingestion of illegal drugs is prohibited at all times and can be tested for drugs anytime while on duty.

## **8.0 ON- CALL EMPLOYEES**

(1) On call employees who are called for duty will be given the opportunity to acknowledge any use of alcohol or the inability to perform his/her safety sensitive function when called to report to duty.

If the covered employee has acknowledged the use of alcohol, but claims ability to perform his or her safety-sensitive function, LRGVDC' Transit Services Department - Valley Metro must administer a reasonable suspicion test.

## **9.0 VIOLATION OF A CRIMINAL DRUG STATUTE**

If an employee pleads guilty or no contest to a violation of a criminal drug statute, the employee must notify his/her supervisor no later than five (5) days after the conviction. LRGVDC's Transit Services Department – Valley Metro is then required to notify the federal government and the Texas Department of Transportation (TXDOT) within ten (10) days of said notification by the employee or other actual notice of this conviction. An employee convicted of a violation of a criminal drug statute will be terminated.

In addition, the distribution, dispensation, possession, concealment, use, sale, or unlawful manufacture of alcohol or drugs while on duty or on LRGVDC's Transit Services Department – Valley Metro premises or conviction of a criminal drug statute for a violation occurring in the workplace is strictly prohibited and will be grounds for termination. All LRGVDC's Transit Services Department – Valley Metro employees must comply with this policy and report within 5 days any conviction for a violation of a drug of a statute that occurred in the workplace.

## **10.0 PREVIOUS DOT EMPLOYER RECORD CHECK**

Section 40.25, *as amended*, of the Revised DOT Drug and Alcohol Testing rule states that all DOT covered employers must make a good faith effort to obtain testing records for the previous (2) two years, for all applicants seeking safety-sensitive positions. Every applicant will be required to complete a written consent that allows their previous employer (s) to release drug and alcohol testing information to the LRGVDC's Transit Services Department – Valley Metro. Should applicant refuse to provide this consent he/she will not be permitted to perform safety-sensitive functions.

LRGVDC's Transit Services Department – Valley Metro will submit the applicant/transferees written consent along with a request for information to each of the DOT - regulated employers who have employed the applicant/transferee for any period during the 2 years before the date of individual's application or transfer: The following information will be obtained:

1. Alcohol test results of 0.04 alcohol concentration or greater;
2. Verified positive drug tests;
3. Refusals to test;
4. Other Violations of FTA/DOT rules; and
5. as appropriate, documentation of the successful completion of DOT return-to-duty requirements including follow up tests.

If the previous employer does not have this information, this documentation will be obtained from the employee. LRGVDC's Transit Services Department – Valley Metro expects that any report turned in is not a false report from any previous DOT employer.

If possible LRGVDC's Transit Services Department – Valley Metro will obtain and review this information before the applicant employee performs safety sensitive functions. If LRGVDC's Transit Services Department – Valley Metro does not receive information within (30) days, LRGVDC's Transit Services Department – Valley Metro will document a good

faith effort. If LRGVDC's Transit Services Department – Valley Metro has not made a good faith effort LRGVDC's Transit Service Department – Valley Metro will not allow the employee to perform safety sensitive functions after 30 days from the date on which the employee first performed safety sensitive job duties.

LRGVDC's Transit Services Department -Valley Metro must also ask all applicants/transferees whether he/she has tested positive, or refused to test within the past two years on any DOT pre-employment drug or alcohol test administered by a DOT covered employer for which they did not get the job.

If information obtained from a previous employer indicates a non-negative test result in violation of a DOT/FTA regulation LRGVDCs Transit Services Department – Valley Metro will not allow the employee to perform safety-sensitive duties unless documentation is obtained stating that the employee has complied with the return-to-duty requirements including the Substance Abuse Professional (SAP) assessment, successful treatment, negative return-to-duty test and follow-up tests.

Any employee who previously violated a DOT drug and alcohol regulation or who had a positive test result and who cannot confirm completion of any treatment program will be terminated under LRGVDC and LRGVDC's Transit Services Department – Valley Metro authority.

LRGVDC's Transit Services Department – Valley Metro will keep the following confidential documentation received and/or good faith efforts for a minimum of 3 years:

1. Alcohol test results of 0.04 alcohol concentration or greater;
2. Verified positive drug tests;
3. Refusals to test;
4. Other violations of FTA/DOT rules; and as appropriate, documentation of the successful completion of DOT return-to-duty requirements including follow up tests.

If the previous employer does not have this information, documentation must be obtained from the employee.

## **11.0 CIRCUMSTANCES FOR TESTING**

Under LRGVDC's Transit Services Department – Valley Metro authority if an employee comes forward with a Drug and Alcohol problem, the employee will not be allowed to continue to perform safety-sensitive functions and will be terminated. A covered employee will be tested for prohibited misuse under this part and all different types of tests will follow same policies:

### **11.1 PRE-EMPLOYMENT TESTING (655.41 & 655.42)**

Prior to conducting a pre-employment test, LRGVDC's Transit Services Department – Valley Metro will inform the applicant or employee in writing of the testing requirement. (655.17) as *amended*

LRGVDC's Transit Services Department – Valley Metro will require that all applicants for employment in safety-sensitive positions or individuals being transferred into safety-sensitive positions from non-safety sensitive positions be given a pre-employment drug and alcohol test. Applicants will not be assigned safety-sensitive functions unless the individual

has a verified negative test result.

When an existing covered employee has not performed a safety-sensitive function for 90 consecutive calendar days and the employee has not been in the employer's random testing pool during that time for sickness, vacation, jury duty, leaves of absence, workers compensation, Family Medical Leave or any other purpose that extends 90 days or more, the employee will be required to take a pre-employment drug test and obtain a negative test result prior to the reassignment of safety-sensitive duties.

Any applicant who undergoes a pre-employment test, but is not actually assigned safety-sensitive duties within 90 days from the date of the test, will have to be retested with negative test results prior to the applicant's first performance of safety-sensitive duties.

LRGVDC's Transit Services Department – Valley Metro has chosen to conduct under FTA authority pre-employment drug and alcohol testing only after making a contingent offer of employment (or transfer).

LRGVDC's Transit Services Department – Valley Metro will follow the procedures set forth in Part 655.42 and Part 40 (Subparts J through N) *as amended*. The applicants must have a negative alcohol test (<0.02 BAC) before he or she is assigned any safety-sensitive duties.

When an employee or applicant has previously failed or refused a pre-employment drug and alcohol test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment *program*. If a pre-employment test is cancelled, LRGVDC's Transit Services Department – Valley Metro shall require all applicants/transferee to submit to and pass another test.

### **11.2 REASONABLE SUSPICION TESTING (655.43)**

The FTA regulations (Sec. 655.43) *as amended*, require that a safety-sensitive employee submit to a test when LRGVDC's Transit Services Department -Valley Metro has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol. The request to undergo a reasonable suspicion test will be based on a specific, contemporaneous, articulable observation concerning the appearance, behavior, speech, or body odor of the safety-sensitive employee and determinations will only be made by trained supervisors or staff trained in detecting the signs and symptoms of drug use and alcohol misuse.

LRGVDC's Transit Services Department – Valley Metro supervisor(s) may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

Likewise an LRGVDC's Transit Services Department – Valley Metro supervisor may direct a covered employee to undergo reasonable suspicion testing for drugs anytime the employee is on duty. Under most circumstances, the alcohol test will be administered immediately following the determination or within two (2) to eight (8) hours following the determination.



### **11.3 POST ACCIDENT TESTING (655.44)**

Lift accidents that results in the following consequences may require testing.

#### **Fatal Accident Testing-**

LRGVDC's Transit Services Department - Valley Metro will perform a drug and alcohol test as soon as possible following an accident involving the loss of human life. LRGVDC's Transit Services Department - Valley Metro will test each surviving covered employee that operated the mass transit vehicle at the time of the accident. LRGVDC's Transit Services Department - Valley Metro will also test any other covered employee whose performance could have contributed to the accident, as determined by the employer, using the best information available at the time of the accident.

#### **Non-Fatal Accident Testing-**

LRGVDC's Transit Services Department - Valley Metro will perform a Drug & Alcohol test as soon as possible following the accident not involving the loss of human life, in which the mass transit vehicle involved is a passenger bus or van where one or more vehicles incurs disabling damage (including non-FTA funded vehicles) as the result of the accident and is removed from operation by a tow truck or other vehicle. LRGVDC's Transit Services Department - Valley Metro shall test each covered employee operating the mass transit vehicle at the time of the accident when an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident.

LRGVDC's Transit Services Department -Valley Metro employees shall remain readily available for testing at the scene of the accident. A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including not notifying the employer or the employer representative of his or her location or if he or she leaves the scene of the accident prior to submission to such test, will be deemed by the employer to have refused to submit to testing.

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

If determined LRGVDC's Transit Services Department -Valley Metro shall test for alcohol as soon as possible or within two (2) to eight (8) hours and within thirty-two (32) hours for drugs following an accident.

LRGVDC's Transit Services Department - Valley Metro, will not test employees whose performance can be completely discounted as a contributing factor.

LRGVDC's Transit Services Department - Valley Metro, prohibits employee(s) from consuming alcohol for 8 hours following an accident or until a post –accident test has taken place, whichever comes first.

#### **11.4 LRGVDC's Transit Services Department – Valley Metro POST-ACCIDENT NON-DOT TESTING**

LRGVDC's Transit Services Department – Valley Metro holds the right under its own authority to test any operator involved in an accident, if the operator is operating any LRGVDC's Transit Services Department – Valley Metro vehicle at the time of the accident. Test administered will be a Non- DOT test.

#### **11.5 RANDOM TESTING (655.45)**

The FTA regulations (655.45), *as amended*, require random testing of drugs and alcohol for all employees performing safety-sensitive functions.

LRGVDC's Transit Services Department -Valley Metro will use a valid scientifically computer based method to select safety-sensitive employees for random testing. The random number computer generator is matched with the employees' identification number (i.e., social security number or other identification number).

As of January 1, 2019, the Federal Transit Administration through the Department of Transportation approved revisions to the 49CFR 655.45(b) Regulations ruling for employers to increase the minimum random drug rate from 25 percent to 50 percent of all FTA Safety Sensitive covered employees (drivers, mechanics, administration staff). From the Acting Administrator for FTA's Office of Transit Safety and Oversight: "This increased random drug testing rate results from a recent uptick in the proportion of violations identified through random drug testing." The 50 percent rate applies to any entities receiving Federal assistance through 5307, 5309, 5311, and 5339 formula funding. Valley Metro receives 5307 and 5339 funding through FTA, and 5307, 5339, and 5311 formula funding from TxDOT. Random Alcohol testing is unaffected and will remain at 10 percent.

These rates are the minimum annual percentage rates published in the Federal Register. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty. Tests will be unannounced as well as unpredictable and testing will be spread reasonably throughout all periods of the calendar year. Random drug testing may also be conducted at all times of the day when safety sensitive functions are being performed to include nights, weekends, and holidays. Once the employee has been notified that he/she has been selected for testing, he/she should then report immediately to the collection site.

All safety-sensitive employees will have an equal chance of being selected for testing and shall remain in the pool, even after being tested. It is possible for some employees to be tested several times in one year, and other employees not to be tested for several years. Every effort shall be made to provide the maximum privacy possible. Employees shall be individually and discretely notified to report to the collection site, and employees selected will be assured that testing is a routine random test. Any employee required submitting to a drug and/or alcohol test must cooperate fully with the collection process and complete all required forms and documents. Random testing must be conducted at all times of day when safety-sensitive functions are performed.

LRGVDC's Transit Services Department – Valley Metro requires each covered employee who is notified of selection for random drug or random testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately. A covered employee shall only be randomly tested for alcohol misuse before the employee is performing safety-sensitive functions, during, or after the employee is performing safety sensitive duties. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

If an employee is off-duty or unavailable at the time LRGVDC's Transit Services Department –Valley Metro desires to conduct a test, the test may be postponed until the employee is on duty only if the test can be performed during the same testing period.

For random testing purposes, LRGVDC's Transit Services Department - Valley Metro *may* remove any employee whose absence from work extends 90 days or more from the random testing pool for any testing period for which he or she will not perform any safety-sensitive duties.

LRGVDCs Transit Services Department – Valley Metro does not allow any discretion by management personnel as to who is selected or notified for random testing.

LRGVDC's Transit Services Department – Valley Metro will give no advance warning, testing will be unannounced and immediate. LRGVDC's Transit Services Department – Valley Metro will exercise care in scheduling substitute employees for those employees who are unavailable at the time LRGVDC's Transit Services Department – Valley Metro desires to conduct a test.

## **12.0 PROHIBITED SUBSTANCES, 49 CFR Part 40, as amended**

Under the FTA drug testing regulation for safety-sensitive employees, LRGVDC's Transit Services Department - Valley Metro is required to conduct laboratory testing of urine specimens for the following five (5) types of drugs. (655.21):

1. Marijuana
2. Cocaine
3. Opioid
4. Phencyclidine (PCP)
5. Amphetamines

Alcohol is also a prohibited substance.

### **13.0 TEST STANDARDS, 49 CFR Part 40, as amended (amended 7-27-2016)**

All specimens indicated positive on the initial test shall be confirmed using GC/MS techniques. The drug testing panel has been modified to harmonize with the revised Mandatory Guidelines by U.S. department of Health and Human Services (DHHS) §§40.85; 40.87 (a); 40.137; 40.139

For:

Marijuana

Cocaine

~~Opiates~~-Opioid

- Hydrocodone  
Common brand names: Norco, Vicodin, Lortab, Hysingla ER
- Hydromorphone  
Common brand names: Dilaudid, Exalgo
- Oxycodone  
Common brand names: Oxycotin, Roxicodone, Percocet
- Oxymorphone  
Common brand names: Opana

Phencyclidine

Amphetamines

LRGVDC's, Transit Services Department – Valley Metro reserves the right under its own authority to test for other drugs.

### **14.0 BEHAVIOR THAT CONSTITUTES A REFUSAL TO SUBMIT TO A TEST**

As an employee, if you refuse to take a drug test, you incur the consequences specified under DOT agency regulations for a violation of those DOT agency regulations.

- Failure to appear for any test (except a pre-employment) at the collection site in the time allotted.
- Failure to remain at the test site until the testing process is completed for drug & alcohol, except in pre-employment situations where leaving before the testing process begins is not deemed to be a test refusal.
- Failure to provide a urine, breath, or saliva specimen (verbal or physical) as required by DOT Part 40.
- Failure to permit the observation or monitoring of specimen collection when it is required.
- Failure to provide a sufficient amount of urine or breath specimen collection when it is required with no medical explanation.
- Failure or refusal to take a second test when required.
- Failure to undergo a medical evaluation when required by an MRO (see definition of MRO on page 12 or employer.
- Failure to cooperate with the testing process.  
(Examples: refusal to empty pockets or wash hands after being directed to so by the collector, or behaving in a confrontational manner that disrupts the collection

- process)
- For an observed collection, failure to follow the observer's instructions to raise clothing above the waist, lower clothing and under pants, and to turn around to permit the observer to determine if individual is wearing any type of prosthetic device that could be used to interfere with the collection process.
  - Possession or wearing of a prosthetic or other device that could be used to interfere with process.
  - Admitting adulteration or substitution of the specimen to the collector or the MRO.
  - If the MRO reports a verified adulterated or substituted test result.
  - In alcohol testing, refusal to sign Step 2 of the Alcohol Testing Form (ATF).
  - Leaving the scene of the accident without just cause prior to submitting to post – accident tests.

MRO or a Medical Review Officer is defined in the regulation, 49 CFR Part 40 Section 40.121-169, as a licensed physician responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

As an employee, when you refuse to take a Non-DOT test or to sign a Non-DOT form, you have not refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a Non-DOT test. However, under LRGVDC's Transit Services Department – Valley Metro authority if you refuse to take a Non-DOT test or sign a Non-DOT form you will be terminated.

### **15.0 FTA DRUG AND ALCOHOL REQUIRED TESTING PROCEDURES §§40.210; 40.83; 40.199; 40.193**

Drug and alcohol testing of safety-sensitive employees and safety-sensitive job candidates will be conducted in a manner designed to protect employees and the integrity of the testing process, safeguard the validity of test results, and ensure that those results are attributable to the correct employee.

Urine samples for drug testing will be collected in private at the collection site designated by the LRGVDC's Transit Services Department - Valley Metro using the split sample collection method. If the collection site personnel and the LRGVDC's Transit Services Department - Valley Metro representative have a reason to believe that an adulterated or substituted sample has been provided, or that the employee altered or substituted the sample, the employee will be required to submit a second, sample under direct observation of collection site personnel of the same gender as the employee. The determination to submit a second sample or to provide the original sample under observed collection shall be made in accordance with Section 49 CFR Part 40.

Direct Observation Procedure: Prior to specimen collection, observer must request employee to raise his/her shirt, blouse, or dress/skirt as appropriate above the waist, lower clothing and underpants and to turn around to show that he/she is not wearing any type of device that could be used to interfere with the collection process.

An approved chain of custody procedure will be followed in the administration of all drug

tests. Urine samples will be sealed and installed by the employee and a witness. The drug testing custody and control form will be completed in the manner specified in 49 CFR Part 40.

Urine samples will be promptly sent to and tested by a laboratory that is certified to perform drug tests by the Department of Health and Human Services (DHHS), in accordance with the procedures set forth in 49 CFR Part 40. In most cases, the turnaround time will be no longer than forty-eight (48) hours for negative results and seventy-two (72) hours for positive results 49 CFR Part 40 permits up to five (5) days turnaround.

Urine samples including primary specimens, Immunoassay-initial screen, & GC/MS-confirmatory testing will be stored for (1) one year if positive. Split specimen-urine

Samples will be discarded if the primary specimen is negative; if test is positive split specimen will be long term frozen storage for at least sixty (60) days.

Breathalyzer tests will be conducted in a manner that provides the employee with privacy to the greatest extent possible. All of the procedures regarding such tests set forth in the 49 CFR Part 40; including procedures relating to completion of the breath alcohol testing form will be followed.

Alcohol tests will be conducted using a National Highway Traffic Safety Administration (NHTSA) approved evidentiary Breath testing device (EBT) or Alcohol Screening Device (ASD) operated by a trained breath alcohol technician (BAT). A list of the approve devices will now be listed on the ODAPC website. 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. Initial drug screening will be conducted using an accepted Immunoassay method. All positive tests will be conformed using the Gas Chromatography/Mass Spectrometry (GC/MS) drug testing method.

Specimen Validity Testing will be conducted on all urine specimens provided for testing under DOT authority, as amended under "49 CFR Part 40". Specimen Validity Testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of Validity Testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. Only Urine specimens are authorized for Drug Testing and prohibit the use of DNA Testing on urine specimens collected during testing. §40.331

#### OBSERVED COLLECTIONS:

- All return-to-duty tests;
- All follow-up tests;
- 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 anther 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.

### **15.1 LRGVDC's Transit Services Department – Valley Metro DRUG & ALCOHOL TESTING PROCEDURES**

Under LRGVDC's Transit Services Department - Valley Metro own authority, any safety-sensitive employee, regardless of employment status, may undergo a directly observed urine drug test, if requested, for any reason. Reasons may include: Random Testing, Reasonable Suspicion Testing, and Post Accident Testing. If an employee refuses the drug test and does not allow the direct observation, as defined on Page13, Under Section 15.0, of a urine drug test, it is cause for termination. Non-DOT forms will be used to test employees under LRGVDC's Transit Services Department -Valley Metro own authority.

### **16.0 CONFIDENTIALITY**

Confidentiality will be maintained throughout the drug/alcohol screening process. Individual test results may not be released to any other party, or parties, without a specific written authorization by the tested person to release the results to others, except as follows:

1. The employee authorizes the transmittal of the information.
2. The employee has signed a release form for a back to work agreement with LRGVDC's Transit Services Department – Valley Metro in which the results of the screen must be known for further action concerning the employee.
3. The employee has been sent for drug and/or alcohol testing and the Medical Review Officer (or designee) must inform the Manager of Administrative Services or designee of the test results.
4. When a claim is made against LRGVDC's Transit Services Department - Valley Metro which involves the drug and alcohol screen and/or its result.
5. When necessary to comply with State or Federal requirements. Every effort will be made to carry out all actions relative to this policy in a manner which respects the dignity and confidentiality of those involved.

LRGVDC's Transit Services Department - Valley Metro employee's (or applicants) are required to submit to a drug or alcohol test and must promptly execute a consent to the collection of samples; analysis of the sample to determine the presence of designated controlled substances and/or their metabolites, or alcohol; and the release of test results to LRGVDC's Transit Services Department - Valley Metro Designated Employer Transit System Representatives.

With a written request every LRGVDC's Transit Services Department - Valley Metro employee will have the right to access his/her own drug and alcohol records and legible copies of the results of all drug and alcohol tests will promptly be made available to the employee. (Section 35.0; Page 24)

### **17.0 VIOLATIONS AND CONSEQUENCES OF THE MISUSE OF DRUGS AND ALCOHOL:**

Violations occur when an employee:

- Has a verified positive drug test result;
- Has a confirmed alcohol concentration of 0.04 or greater; or
- Refuses to submit to a test.
- Uses drug and or alcohol while performing a safety-sensitive function(s); just before or just after performing a safety-sensitive function(s). Under the LRGVDC' Transit Services Department – Valley Metro authority any employee who uses alcohol before, while, or just after performing a safety-sensitive function will be terminated.
- Uses alcohol during specified on calls hours when they are on-call. Under the LRGVDC's Transit Services Department – Valley Metro authority any employee on call having an alcohol level of 0.04 or greater will be terminated.
- Does not submit to all authorized tests.

Since LRGVDC's Transit Services Department - Valley Metro practices zero-tolerance any LRGVDC's Transit Services Department - Valley Metro employee having any of the above violations will immediately be removed from Safety Sensitive duties and under LRGVDC's Transit Servies Department - Valley Metro authority employee will be terminated. And will then be referred to a Substance Abuse Professional (SAP). A list of qualified agencies for drug and alcohol counselor's licenses/certificates will now be listed on the ODAPC's website. The following definition:

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

LRGVDC's Transit Services Department - Valley Metro will not permit a covered employee tested under the provisions of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform safety-sensitive functions, until:

1. The employee's alcohol concentration measures less than 0.02; or
2. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

The foregoing regarding the use of alcohol will apply to periods when employees are on breaks, between shifts, or at lunch, if they are scheduled or may be assigned to work thereafter on the same day. These rules will also apply to non-safety sensitive employees.

## **18.0 SPLIT SPECIMENS**

(a) As an employee, when the MRO has notified you that you have a verified positive drug test and/or refusal to test because of adulteration or substitution, you have 72 hours from the time of notification to request a test of the split specimen. The request may be verbal or in writing. If you make this request to the MRO within 72 hours, you trigger the requirements of this section for a test of the split specimen. There is no split specimen testing for an invalid result.

(b)(1) If, as an employee, you have not requested a test of the split specimen within 72 hours, you may present to the MRO information documenting that serious injury, illness, lack of



actual notice of the verified test result, inability to contact the MRO (e.g., there was no one in the MRO's office and the answering machine was not working), or other circumstances unavoidably prevented you from making a timely request.

### **19.0 DISCIPLINARY ACTION: GROUNDS FOR IMMEDIATE DISCHARGE.**

Since LRGVDC's Transit Services Department - Valley Metro practices zero-tolerance the following rules will apply to non-safety sensitive employees and Safety-Sensitive employees. And under LRGVDC's Transit Services Department – Valley Metro authority any employee who violates these rules will be terminated.

1. Failure to report an arrest for drug and alcohol statute within five (5) days of the arrest. An employee who is terminated for failure to comply with this section will be reinstated only if he/she supplies evidence that it was not reasonably possible to comply.
2. Refusal to submit to an authorized drug or alcohol test.
3. Consuming alcoholic beverages or any substances containing alcohol, during working hours, during breaks, between shifts, at lunch, if the employee is scheduled for work or may be assigned to work.
4. Distribution, dispensation, possession, concealment, use, sale or unlawful manufacture of any prohibited substance, while on duty or on LRGVDC's Transit Services Department - Valley Metro premises.
5. Conviction of any criminal drug statute and failure to notify LRGVDC's Transit Services Department – Valley Metro of such conviction within five (5) days.

The policy of LRGVDC's Transit Services Department – Valley Metro is to terminate Safety Sensitive employees after the 1<sup>st</sup> violation. However, in the event that an employee is returned to Safety Sensitive duties, they will be subject to all Return-To-Duty and Follow-up testing as specified in 49 CFR Part 40 and Part 655.

### **20.0 RETURN-TO –DUTY TESTING 655.46 & 40.285.**

Since LRGVDC's Transit Services Department - Valley Metro practices zero-tolerance the following rules will be applied and under LRGVDC and LRGVDC's Transit Services Department - Valley Metro authority any employee who violates these rules will be terminated.

**NOTE:** Return to duty testing is collected under direct observation. Please see Direct Observation Procedure, Page 13 under Section 15.0.

1. Employee must first be evaluated by a Substance Abuse Professional.
2. Employee must pass a return to duty drug and alcohol tests. Employee will pay fees for all return to duty drug or alcohol tests.
3. Employee must have a verified negative drug test result and a negative alcohol test result to return back to a safety sensitive function.
4. If a drug test is cancelled LRGVDC's Transit Services Department - Valley Metro shall require the employee to submit to and pass another drug test. Employee will pay

fees for another drug test if the drug test has been cancelled.

5. If an employee is unable to provide a sufficient amount of urine to permit a return-to-duty drug test (i.e., 45 mL), the “insufficient volume” procedures must be followed:

a. When an employee is unable to provide 45mL’s of urine, the collector will discard the specimen and instruct the employee that he/she has up to 3 hours to provide another specimen with sufficient volume.

b. The 3 hour time period begins when the insufficient quantity or empty cup is presented to the collector.

c. The employee may only consume up to 40 ounces of fluid distributed reasonably thorough out the period.

d. Refusal to drink will not be considered a test refusal, unless the 3 hour time period has expired and the employee refuses the attempt to provide a new urine specimen; this is considered a test refusal.

e. If re- attempts are made that result in insufficient urine volume the specimen must and will be discarded. There will be no combination of urine collected to create one specimen of sufficient volume.

f. Specimen will only be maintained if a temperature reading was out of temperature range or showed evidence of tampering or adulteration.

g. After the 3 hours have passed and the employee is still unable to provide an adequate specimen LRGVDC’s Transit Services Department - Valley Metro will:

- ❖ Discard the insufficient specimen.
- ❖ Testing will be discontinued.
- ❖ DER will be notified.
- ❖ DER will consult with Medical Review Officer.
- ❖ LRGVDC’s Transit Services Department - Valley Metro will direct employee to obtain a medical evaluation from a licensed physician who is acceptable to LRGVDC’s Transit Services Department - Valley Metro.
- ❖ An evaluation will be made within 5 business days of the initial collection effort.
- ❖ The medical evaluation must determine a medical condition. This includes a physiological condition, urinary dysfunction, a pre-existing physiological condition not to include unsupported assertions of “situational anxiety” or dehydration. A condition which is serious and permanent, or long-term disability that is highly likely to prevent the employee from providing a sufficient urine specimen in the future.

### **21.0 FOLLOW –UP –TESTING (655.47 & 40.301).**

Since LRGVDC and LGRVDC’s Transit Services Department – Valley Metro practices zero-tolerance the following rules will apply to non-safety sensitive employees and Safety-Sensitive employees. And under LRGVDC’s Transit Services Department – Valley Metro authority any employee who violates these rules will be terminated.

NOTE: Follow up testing is collected under direct observation. Please see Direct Observation Procedure, Page 13 under Section 15.0.

a. If an employee is allowed to return-to-duty, he/she shall be subject to unannounced follow-

up-testing for at least 12 but not more than 60 months. Employee will pay fees for all follow up drug or alcohol tests.

b. Six tests will be performed during the first 12 months the employee has returned back to duty. Employee will pay fees for any follow up tests performed during the first 12 months the employee has returned back to duty.

c. Every case will be decided based on the unique circumstance of the individual.

d. Should the Substance Abuse Professional recommend follow-up testing beyond the 12 month period, it shall not exceed the 60 months from the time the employee returns to duty and any follow up testing beyond the 60 months will be paid by the employee.

e. The Substance Abuse Professional will recommend based upon the evaluation on how testing may be conducted. Testing may be weekly, biweekly, monthly and or may be reduced to monthly or quarterly testing.

f. The Substance Abuse Professional may also recommend that a follow-up alcohol test have a required result of less than 0.04.

g. The Substance Abuse Professional will document his/her recommendation in a written follow-up testing plan that LRGVDC's Transit Department Services - Valley Metro is required to follow.

h. LRGVDC's Transit Services Department - Valley Transit will not impose any additional testing requirements beyond the SAP's follow-up testing plan.

i. Follow -up testing must be unannounced with no predictable pattern.

j. Follow-up testing is separate from and in addition to the random testing program.

k. Any employee of LRGVDC's Transit Services Department - Valley Metro who is subject to follow-up testing must also remain in the standard random pool. Test fees will not apply to Random testing.

L. If a recommendation for aftercare from the SAP is received then LRGVDC's Transit Services Department - Valley Metro will be encouraged to create a return-to-duty contract with the employee that will require the employee to comply with the aftercare recommendations. Such a contract would spell out performance goals and obligations, remaining free of prohibited substances and complying with aftercare recommendations.

## **22.0 DILUTE NEGATIVE (40.197)**

(a) If the MRO informs LRGVDC's Transit Services Department - Valley Metro that a positive drug test was dilute, the LRGVDC's Transit Services Department - Valley Metro will simply treat the test as a verified positive test. The LRGVDC's Transit Services Department - Valley Metro will not direct the employee to take another test based on the fact that the specimen was dilute.

(b) If the MRO informs LRGVDC's Transit Services Department - Valley Metro that a negative test was dilute, the LRGVDC's Transit Services Department - Valley Metro will take the following action: **The employee must be retested.** In cases where the level of creatinine is at a low level (2-4 mg/dL) the retest must be conducted under direct observation. This information will be stated on the results received from the MRO.

(i) LRGVDC must treat all employees the same for this purpose. For example, LRGVDC' Transit Services Department – Valley Metro must not retest some employees and not others. LRGVDC' Transit Services Department – Valley Metro may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment situations, but not in random test situations). LRGVDC will inform employees in advance of decisions on these matters.

(c) The following provisions apply to all tests LRGVDC's Transit Services Department – Valley Metro directs an employee to take under paragraph (b) of this section:

(1) LRGVDC's Transit Services Department – Valley Metro must ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site;

(2) LRGVDC's Transit Services Department – Valley Metro must treat the result of the test LRGVDC's Transit Services Department – Valley Metro directed the employee to take under paragraph (b) of this section—and not a prior test—as the test result of record, on which LRGVDC's Transit Services Department – Valley Metro rely for purposes of this part;

(3) If the result of the test LRGVDC's Transit Services Department – Valley Metro directed the employee to take under paragraph (b) of this section is also negative and dilute, LRGVDC's Transit Services Department – Valley Metro is not permitted to make the employee take an additional test because the result was dilute. In this case the test is considered to be negative.

(4) If the result of the test LRGVDC's Transit Services Department – Valley Metro directed the employee to take under paragraph (b)(2) of this section is also negative and dilute, LRGVDC is not permitted to make the employee take an additional test because the result was negative dilute. Provided, however, that if the MRO directs LRGVDC's Transit Services Department – Valley Metro to conduct a recollection under direct observation under paragraph (b)(1) of this section, LRGVDC must immediately do so.

(5) If the employee declines to take a test LRGVDC's Transit Services Department – Valley Metro directed him or her to take under paragraph (b) of this section, the employee has refused the test for purposes of this part and DOT agency regulations.

### **23.0 EDUCATION AND TRAINING PROGRAMS AND REQUIREMENTS (655.14)**

#### 1. Community Service Hotline Phone Numbers:

National Technical Assistance

a. Drug - Free Workplace Help Line- 1-800-843-4971

b. National Clearinghouse For Alcohol And Drug Information- 1-800-729-6686

c. National Institute On Drug Abuse Treatment Hotline(NIDA)- 1-800-662-HELP

d. Department Of Transportation's Anti-Drug Information Center- 1-800-CAL-DRUG

e. Employee Assistance Professionals Association (EAPA)- 703-522-6272

f. National Association Of State Alcohol And Drug Abuse Directors ( NASADAD)  
202-783-6868

#### 2. Safety/Sensitive Employee Training:

a. Minimum 60 minutes for drugs.

b. No training requirement for alcohol.

#### 3. a. Supervisory Training Requirements:

a. 60 minutes in addition to employee training (if safety/sensitive)

b. 60 minutes in Physical, behavioral, and performance indicators of probable drug use .

c. 60 minutes in Physical, behavioral, and performance indicators of probable alcohol use

4. LRGVDC's Transit services Department - Valley Metro shall establish an employee education and training program for all covered employees, including:

- a. Education. The education component shall include display and distribution to every covered employee of: informational material and a community service hot line telephone number for employee assistance, if available.
- b. Training- Covered employees. LRGVDC's Transit Services Department - Valley Metro covered employees *will* receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and on the signs and symptoms that may indicate prohibited drug use.
- c. Supervisors. Supervisors and/or other company officers authorized by the

LRGVDC's Training Services Department – Valley Metro to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **24.0 REFERRAL, EVALUATION, AND TREATMENT (SECTION 655.62)**

If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resource available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs.

#### **25.0 TEXAS ALCOHOL AND DRUG ABUSE LICENSED SITE FACILITIES FOR THE LRGVDC AREA**

A current list of Substance Abuse Professionals is kept by the LRGVDC's Transit Services Department - Valley Metro and is available to staff.

- a. PALMER DRUG ABUSE PROGRAM  
115 NORTH NINTH STREET  
MCALLEN, TEXAS 78501  
PHONE #: (956) 687-7714
- b. PALMER DRUG ABUSE PROGRAM  
1275 COTTONWOOD DRIVE  
BROWNSVILLE, TEXAS 78520  
PHONE #: (956) 544-3333
- c. COMMUNITY COUNCIL  
3516 E. Expressway 83 Ste 5  
WESLACO, TEXAS 78596  
PHONE #: (956) 447-4636
- d. RIO GRANDE VALLEY COUNCIL ON  
ALCOHOL AND DRUG ABUSE  
5510 N. Cage Blvd. Ste 8-C  
Pharr, Texas  
PHONE #: (956) 787-7111

#### **26.0 EFFECTS OF ALCOHOL**

Alcohol is the most commonly abused drug in the United States and its effect on an

individual's health, work and personal life is immense. It is estimated that each alcoholic affects four to five other people, including family, friends and co-workers. The average American pays \$1000 annually to cover the hidden costs of alcoholism such as decreased productivity, accidents, increased health costs, jail, and treatment costs. Approximately 65 percent of murders, 60 percent of child abuse cases, 40 percent assaults, and 55 percent of domestic violence cases are alcohol related. Additionally, alcohol is a major factor in the majority of the traffic fatalities that occur each year.

Alcoholics put themselves at constant risk of death and illness. Those who don't die in traffic accidents are likely to succumb to one of a number alcohol related illness, such as liver disease, malnutrition, and a weakened immune system.

There is a wide spectrum of signs and symptoms of an alcohol problem which can include the following; urgency of first drinks, feelings of guilt about drinking, onset of memory blackouts, increased dependence on alcohol, decreases ability to stop drinking when others do so, neglect of food and physical deterioration.

If an employee suspects he or she has an alcohol problem, he or she should seek the help of a Substance Abuse Professional (SAP).

## **27.0 ADDITIONAL PROVISIONS REQUIRED BY STATE LAW**

LRGVDC's Transit Services Department – Valley Metro as an employer in the State of Texas must comply with the Texas Workers Compensation Act. Tex.Rev.Civ.Stat.Ann.Art. 6308 s. 7.10 (Vernon Supp.1991) which mandates that the following section be part of an employer's Drug-Free Workplace Policy.

## **28.0 PRESCRIPTION DRUGS/OVER THE COUNTER DRUGS**

The appropriate use of prescription drugs and over the counter medication is not prohibited. Prescriptions are illegally valid prescription consistent with the Control Substance Act (CSA) as oppose to other definitions noted under the patient protection and Affordable Care Act (ACA). §40.135; 40.137; 40.141. However, the following guidelines must be observed.

1. Any employee using a prescription drug should consult with his/her physician regarding the effects of that drug in relation to the operation of motorized vehicles, machinery, or safety-sensitive functions.
2. Employees should read all labels carefully.
3. On-duty employees may not use over the counter medications where the manufacturer advises against their use while operating motorized vehicles, machinery, safety-sensitive functions, or where their use during working hours has not been approved by the employee's physician.
4. In the event of a question regarding the use of any prescription drug or over the counter medication, the employee must notify their supervisor, and must submit written approval for use of the medication from his/her physician, upon request.
5. Any employee reporting for a drug/alcohol test must provide the Medical Review Officer (MRO) with names of prescriptions and over the counter medication that they are currently taking.
6. An employee who reports for duty while using any over the counter or prescription medication where the manufacturer advises against their use while operating

motorized vehicles or machinery, who informs LRGVDC's Transit Services Department – Valley Metro of such, and does not provide the written approval from her/his physician, will not be allowed to perform the safety-sensitive duties for failure to provide said written approval shall have any time beyond the remainder of the day of the report charged against her/his attendance records, and any instance thereafter.

Concerning determination of medically unqualified or significant safety risk:

- When a tested employee is taking a prescribed medication, the MRO must verify the prescription and if it is a valid prescription, immediately notify the employer of a verified negative result.
- In cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements, or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO.
- The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk.
- If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327
- Authorizes MROs to order additional testing to assist in the verification process without requiring the MRO to obtain USDOT consent prior to testing (i.e., additional testing needed to rule out false positive for methamphetamines due to over-the-counter medications; additional testing to rule out false positive for THC due to legitimate use of the medication Marinol).

**29.0 CHEMICAL SCREENING CONSENT AND RELEASE FORM**

I, \_\_\_\_\_, hereby acknowledge I have been informed and given a copy of the LRGVDC’s Transit Services Department – Valley Metro Substance Abuse Policy and agree to be bound by this policy for the purposes of applying for, accepting, or continuing employment with the LRGVDC’s Transit Services Department – Valley Metro. I also hereby state that I am not a user of controlled substances except under medical supervision as listed below.

I understand and consent freely and voluntarily to the LRGVDC’s Transit Services Department – Valley Metro request for urine or other specimen for sample required to detect the presence of any addictive or illegal drugs. I hereby release and hold harmless the LRGVDC’s Transit Services Department – Valley Metro, the laboratory, their employees, agents, and contractors from any liability arising from (1) this request to furnish a specimen or sample. (2) The testing of the specimen or sample, and (3) any decisions made, based upon the results of the tests, which concern my application for employment or my continued employment. I consent to allow any designated LRGVDC’s Transit Services Department – Valley Metro employee, physician, laboratory, hospital, or medical professional to perform appropriate chemical tests for the presence of alcohol, drugs, or other controlled substances. I give my permission to any designated LRGVDC’s Transit Services Department – Valley Metro employee, physician laboratory, hospital, or medical professional to release the results of these tests to the LRGVDC’s Transit Services Department – Valley Metro or its designated representative and I release any designated institution or person from any liability whatsoever arising from the release of this information. I have taken within the past 30 days, or am presently taking, the following medications:

<u>Name of Drug</u>	<u>Condition for which Taken</u>	<u>Prescribing Physician</u>
-----	-----	-----
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I hereby consent to allow the LRGVDC’s Transit Services Department – Valley Metro or its designated representative to verify and/or confirm the above information with the prescribing physician listed above.

**LRGVDC’s Transit Services Department – Valley Metro Representative**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Applicant/Employee**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**30.0 EMPLOYEE ACKNOWLEDGMENT FORM:**

**LRGVDC's Transit Services Department**  
**VALLEY METRO**  
**Drug & Alcohol Policy**  
**Verification of Employee Notice**

I have received a copy of the LRGVDC's **Transit Services Department Drug & Alcohol Free Workplace Policy** which outlines the rights, duties, and responsibilities of the LRGVDC's Transit Services Department – Valley Metro and all safety-sensitive employees of the LRGVDC's Transit Services Department – Valley Metro in accordance with 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 49 CFR Part 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations). I understand that it is my responsibility to read and abide by the rules contained in this policy.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Name (print): \_\_\_\_\_

Social Security No.: \_\_\_\_\_

LRGVDC's Transit Services Department – Valley Metro Witness Signature:

\_\_\_\_\_

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

**31.0 REFERRAL NOTICE**

You have indicated on your Chemical Screening Consent Release Form that you are not a user of any controlled substances. However, our screening test has revealed the presence of a controlled substance.

As a result, you will not be considered for employment at this time. However, you may elect to receive professional evaluation and/or to enter a rehabilitation program (at your own expense) at a facility approved by the Texas Commission on Alcohol and Drug Abuse. After successful completion, you may reapply for a position with the LRGVDC's Transit Services Department – Valley Metro.

\_\_\_\_\_  
LRGVDC's Valley Metro Department Head

\_\_\_\_\_  
Date

\_\_\_\_\_  
I acknowledge receipt of this notice  
(Applicant's Signature)

\_\_\_\_\_  
Date

**32.0**

**LRGVDC's Transit Services Department – Valley Metro  
REASONABLE SUSPICION DOCUMENTATION FORM**

Employee Name:	Date of Observation Month/Day/Year:
Location:	Time of Observation:

**OBSERVED PERSONAL BEHAVIOR (CIRCLE ALL APPROPRIATE ITEMS)**

<b>Breath:</b> (Odor of Alcoholic beverage) Strong Faint Moderate None	<b>Eyes:</b> Bloodshot Glassy Clear Dilated Pupils Normal Heavy Lids Fixed Pupils	<b>Speech:</b> Confused Accent Stuttered Thick Tongued Mumbled Slurred Cotton mouthed
<b>Attitude:</b> Excited            Indifferent Hilarious        Insulting Cocky             Sleepy Talkative        Profane Cooperative     Polite	<b>Unusual Action:</b> Hiccoughing    Fighting Belching        crying vomiting        laughing Other	<b>Balance:</b> Falling           Needs Support Wobbling        Swaying Other
<b>Walking:</b> Falling           Staggering Stumbling        Swaying Other	<b>Turning:</b> Falling           Staggering Stumbling        Swaying Hesitant         Other	
<b>Any other unusual actions or statements:</b>		
<b>Signs or complaints of illness or injury:</b>		
<b>Supervisor's Opinion</b>		
<b>Effects of Drug/Alcohol Intoxication</b>	<input type="checkbox"/> None <input type="checkbox"/> Slight <input type="checkbox"/> Obvious <input type="checkbox"/> Extreme	
<b>Action Taken</b>	<input type="checkbox"/> Send for Testing <input type="checkbox"/> Send Employee back to Duty	
<b>Employee Test Performed</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No    Comments:	
<b>Additional Comments:</b>		
<b>Supervisor Signature:</b>	<b>Date:</b>	<b>Time:</b>
<b>Witness:</b>	<b>Witness:</b>	

**33.0**

**LRGVDC's Transit Services Department – Valley Metro**

**“RELEASE OF INFORMATION FORM”**

**(49 CFR Part 40 Drug and Alcohol Testing)**

Section I. To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

Employee Printed or Typed Name: \_\_\_\_\_  
Employee SS or ID Number: \_\_\_\_\_

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in Section I-B, to the employer listed in Section I-A. The release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in Section II-A by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug test;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation.
6. Documentation, if any, of completion of the return-to-duty Process following a rule violation.

**Failure to provide written consent, including former employer information and signature, will result in you being disqualified for a safety sensitive position with The LRGVDC's Transit Services Department – Valley Metro, as per 49CFR Part 40.25(a).**

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I-A

New Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

I-B.

Previous Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

Section II. To be completed by the previous employer and transmitted by mail or fax to the new employer:

II-A. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing

- |   |           |                    |
|---|-----------|--------------------|
| 1. Did the employee have alcohol tests with a result if 0.04 or higher?                                 | YES _____ | NO _____           |
| 2. Did the employee have verified positive drug tests?  | YES _____ | NO _____           |
| 3. Did the employee refuse to be tested?  | YES _____ | NO _____           |
| 4. Did the employee have other violations of DOT agency drug and alcohol testing regulations?           | YES _____ | NO _____           |
| 5. Did a previous employer report a drug and alcohol rule violation to you?                             | YES _____ | NO _____           |
| 6. If you answered YES to any of the above items, did the employee complete the return-to-duty process? | N/A _____ | YES _____ NO _____ |

NOTE: If you answered yes to item 5, you must provide the previous employer's report. If you answered yes to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

II-B.

Name of person providing information in Section II-A:

\_\_\_\_\_  
Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

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

## 34.0 LRGVDC's Transit Services Department - Valley Metro POST ACCIDENT TESTING DECISION REPORT

*Note: Accident does not necessarily mean collision. If an individual falls on a vehicle and needs to be taken to the hospital, an accident has occurred, and a post-accident test is required unless the driver can be discounted as a contributing factor. (Spring 1996, FTA D&A Updates, p.5)*

<b>System Name:</b>	
<b>Date of Accident :</b>	<b>Time of Accident:</b>
<b>Driver of Vehicle:</b>	
<b>Location of Accident:</b>	
<b>Traffic Crash Report Attached :</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
1. <b>Was there loss of life as a result of the accident? :</b> <input type="checkbox"/> Yes <b>(Requires testing- No Exceptions)</b> <input type="checkbox"/> No	
2. <b>Did an Individual suffer a bodily injury and immediately receive medical treatment away from the scene of the accident?</b> <input type="checkbox"/> Yes <b>(Requires testing unless covered employee or driver on the vehicle can be completely discounted as a contributing factor to the accident) :</b> <input type="checkbox"/> No <b>(Requires no testing under FTA authority.)</b>	
3. <b>Was there disabling damage to any of the vehicles involved?</b> <i>Disabling damage</i> means damage, which precludes departure of <u>any vehicle</u> from leaving the scene of the occurrence in its usual manner in daylight after simple repairs; or damage to any vehicle that could have been operated but which would have further damaged the vehicle if so operated. Disabling damage does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement even if no spare tire is available; or damage to headlights, taillights, turn signals, horn, mirrors, or wind shield wipers that makes them inoperative. <input type="checkbox"/> Yes <b>(Requires testing unless question 4 applies.)</b> <input type="checkbox"/> No <b>(Requires no testing under FTA Authority.)</b>	
4. <b>Can the driver or any other covered employee on the vehicle be completely discounted as a contributing factor to the accident?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <b>Even if you answer No, under FTA regulations you must also meet the criteria questions 1, 2, and/ or 3 to require testing.</b> <b>Note: If you discount the driver as a contributing factor, it should be well documented.</b> <b>Documentation:</b> _____	
5. If drug and alcohol testing is required, can the performance of any other safety sensitive employees (e.g., maintenance personnel, dispatcher, etc.), whose performance may have contributed to the accident (as determined by the transit agency at the time of the accident), be completely discounted as contributing to the accident? <input type="checkbox"/> Yes <input type="checkbox"/> No <b>Even if you answer No, under FTA regulations you must also meet the criteria questions 1, 2, and/ or 3 to require testing.</b>	
6. <b>Did you perform a drug and/or alcohol test?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No If No, complete # 6 and sign and submit a report.	
<b>Name of Supervisor making this determination:</b>	
<b>Time Employee was informed of this determination:</b>	
7. <b>Decision to Test:</b> FTA Authority <input type="checkbox"/> LRGVDC Authority <input type="checkbox"/>	
8. <b>Was an alcohol test performed within 2 hours?</b>	<input type="checkbox"/> Yes            Date & Time: <input type="checkbox"/> No            Why, Not?
9. <b>If no alcohol test was performed and more than (8) hours elapsed from the time of the accident, please explain:</b>	
10. <b>Was a drug test performed within 32 hours?</b>	<input type="checkbox"/> Yes            Date & Time: <input type="checkbox"/> No            Why, Not?
11. <b>Did the driver leave the scene of the accident without just cause?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain	
<b>Report Submitted by (Signature &amp; Title):</b>	<b>Date:</b>

**Attachments:**

1. Order for testing form

2. CCF (Custody Control Form) with test results

**35.0**

DRUG AND ALCOHOL RECORD ACCESS FORM

I \_\_\_\_\_, verify that I have been granted by LRGVDC's Transit Services Department – Valley Metro to access, review and obtain copies of my own drug and alcohol records as required.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*