

**16th Annual FTA Drug and Alcohol Program
National Conference**

March 14-16, 2023

**Small and Rural
Employers:
Challenges and Best
Practices**

Craig McNulty
Cahill Swift – Boston, MA


FEDERAL TRANSIT ADMINISTRATION


U.S. Department of Transportation
Federal Transit Administration

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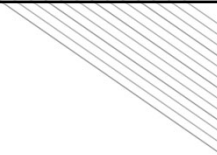
Hurdles to Compliant Testing

- Workload (and Records Storage)
- Training
- Unfavorable Geography
- Qualified Service Agents
- Testing Limitations


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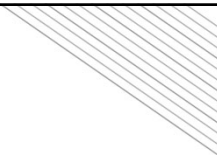
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Workload and Records Storage


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Workload

- Drug and alcohol program is buried
 - Scarce resources
 - Staffing
- Management (sometimes) does not understand the importance

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Workload

- Information sharing between departments
 - Ensure necessary records are shared
- Appropriately organized and secured files
 - FTA's record keeping requirements



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Workload and Records Storage

- What records do you keep?
 - Test results
 - Testing process administration
 - Return-to-duty process administration
 - Employee training
 - Supervisor training



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Records Storage

- Secure location with controlled access
- Your TPA may keep them
 - Employer still responsible that they are current, saved, and secured correctly



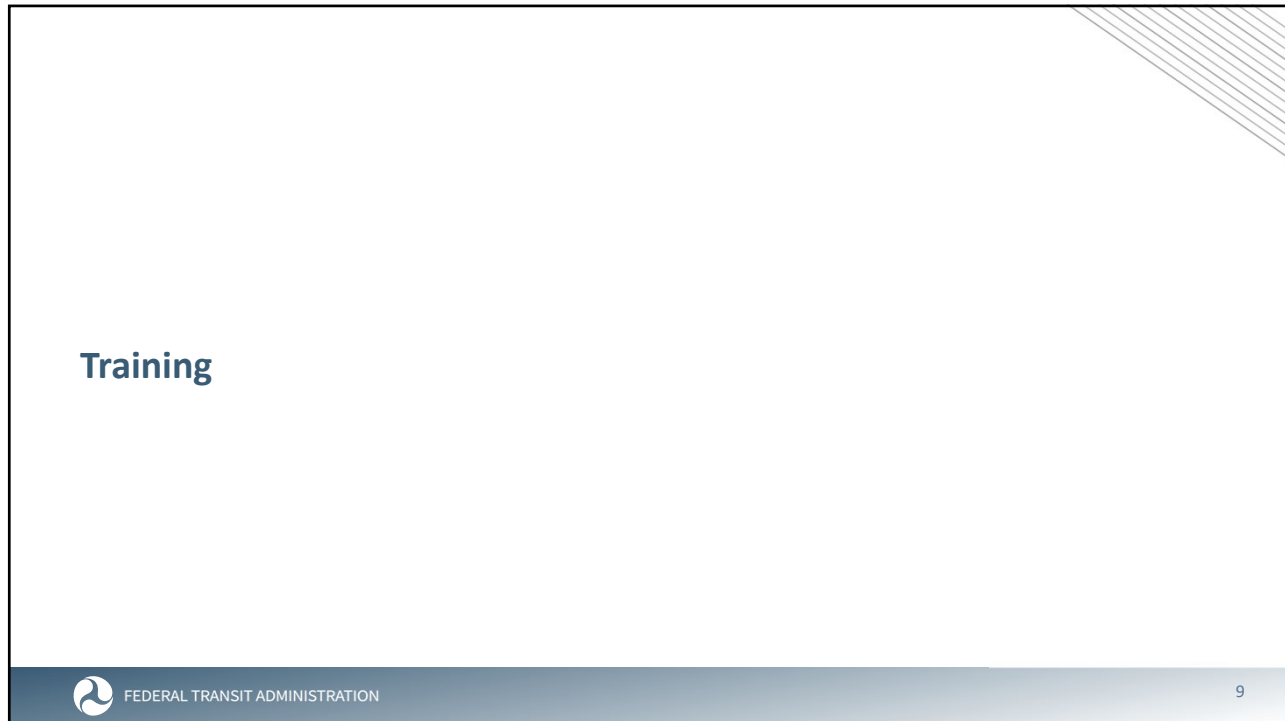
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Records Storage

- One (1) Year:
 - Negative drug test results
 - Alcohol test results less than 0.02
- Two (2) Years:
 - Education and training records
 - Records related to the alcohol and drug collection process
- Three (3) Years:
 - Previous employer records
- Five (5) Years:
 - Annual MIS reports
 - Employee evaluation and referrals to SAPs
 - Follow-up tests and follow-up schedules
 - Refusals to test
 - Alcohol test results 0.02 or greater
 - Verified positive drug test results



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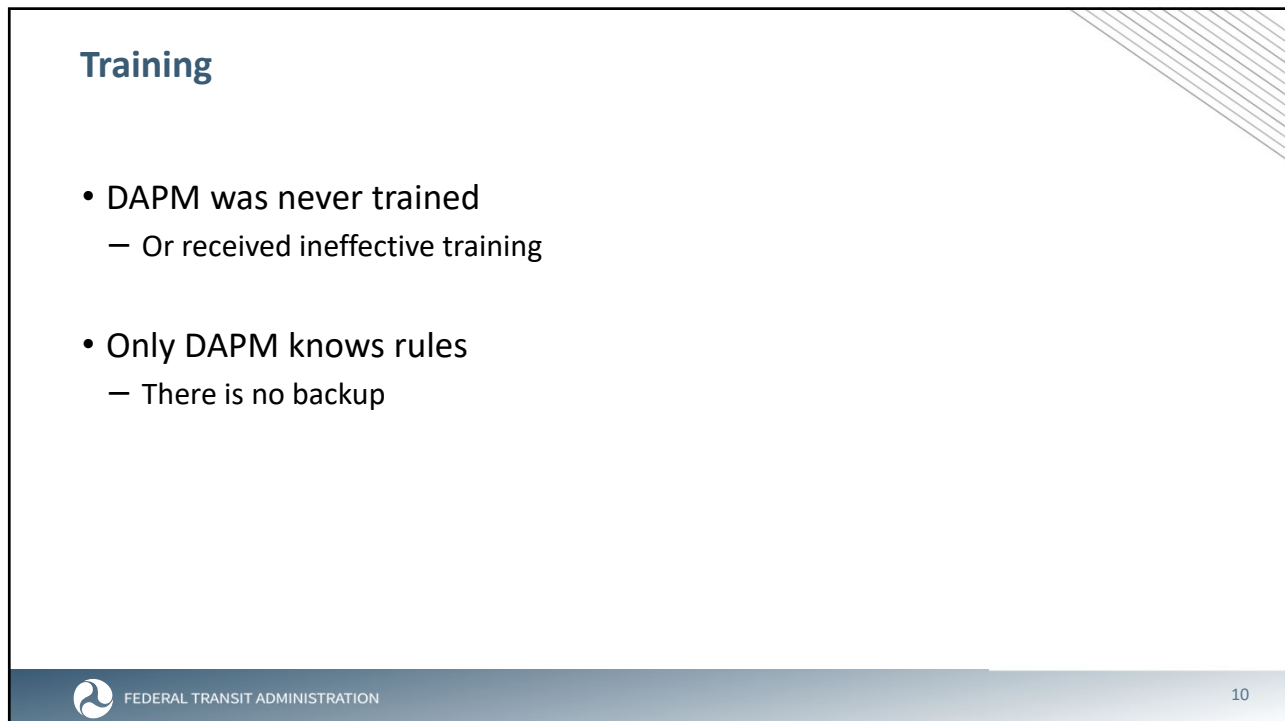


A presentation slide with a white background and a dark blue footer. The word "Training" is written in a bold, dark blue font on the left side. The footer contains the Federal Transit Administration logo and name on the left, and the number "9" on the right. A decorative pattern of diagonal lines is in the top right corner.

Training

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A presentation slide with a white background and a dark blue footer. The word "Training" is written in a bold, dark blue font at the top left. Below it is a bulleted list with two main points and their sub-points. The footer contains the Federal Transit Administration logo and name on the left, and the number "10" on the right. A decorative pattern of diagonal lines is in the top right corner.

Training

- DAPM was never trained
 - Or received ineffective training
- Only DAPM knows rules
 - There is no backup

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Training

- Compliant policy
 - Will help establish required baselines
- Employee/supervisor training
 - 60-minute drug awareness
 - Reasonable Suspicion (60/60)
 - Post-Accident thresholds and timeframes
- Display and distribution of materials



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Unfavorable Geography



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Unfavorable Geography

- Isolated location
 - Or multiple remote locations
- Leads to testing difficulties for
 - Random
 - Post-accident
 - Reasonable suspicion



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Unfavorable Geography

- Testing difficulties
 - Random, Post-Accident, Reasonable Suspicion:
 - Network of sites
 - In-house
 - Testing throughout all hours of service



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Unfavorable Geography

- Isolated location
 - Inability to locate “readily available” Substance Abuse Professionals (SAPs)



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Unfavorable Geography

- Office of Drug and Alcohol Policy and Compliance (ODAPC) **does** allow for virtual employee assessments
 - Must meet the following criteria:
 - The technology you use should permit a real-time two-way audio and visual communication and interaction between you and the employee.
 - You should determine if the quality of the technology (e.g., speed of the internet connection, clarity of the display, application being used, etc.) is sufficient for you to gather all the visual (e.g., non-verbal physical cues) and audible information you would normally observe in an in-person face-to-face interaction.
 - You may only utilize the technology if your State-issued license authorizes you to do so and within the parameters of that authority.



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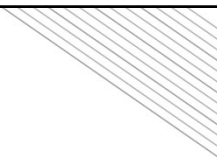


Qualified Service Agents

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Qualified Service Agents

- Medical Review Officer (MRO)
- Substance Abuse Professional (SAP)
- Urine Collector
- Screening Test Technician (STT)/Breath Alcohol Technician (BAT)
- Collection Site

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Qualified Service Agents

- MRO
 - Check qualifications
 - Create easy and efficient reporting path
- SAP
 - Check qualifications
 - Must have at least two “readily available” SAPs
 - Can use a broker (if you have an agreement)

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Find a Qualified SAP

- National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC)
 - <https://www.naadac.org/sap-directory>
- International Certification Reciprocity Consortium (ICRC)
 - <https://internationalcredentialing.org/memberboards>
- National Board for Certified Counselors (NBCC)
 - <https://www.nbcc.org/search/counselorfind>

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Find a Qualified SAP

- SAP
 - Check reports
 - Reports must contain certain information
- MRO
 - Check results
 - Results must contain certain information



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Qualified Service Agents

- Urine Collectors, STTs, and BATs
 - Check qualifications
 - Proactively ask collection site to send over any qualifications for new staff
 - Error correction training (when necessary)



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Qualified Service Agents

- Collection Site

- Check if EBT is on conforming products list (CPL):
 - See ODAPC website: <https://www.transportation.gov/odapc/Approved-Evidential-Breath-Measurement-Devices>
- Make regular visits:
 - Check enclosure
 - Check the sign-in process (no collection site specific consent form)
 - Talk to manager, and/or collectors, and assure them it is ok to call you with any problems



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Qualified Service Agents

- Collection Site

- Check incoming paperwork for errors
 - Fix when required
 - Note and file when completed
- See if appointments are available
- Able to prioritize reasonable suspicion and post-accident testing?



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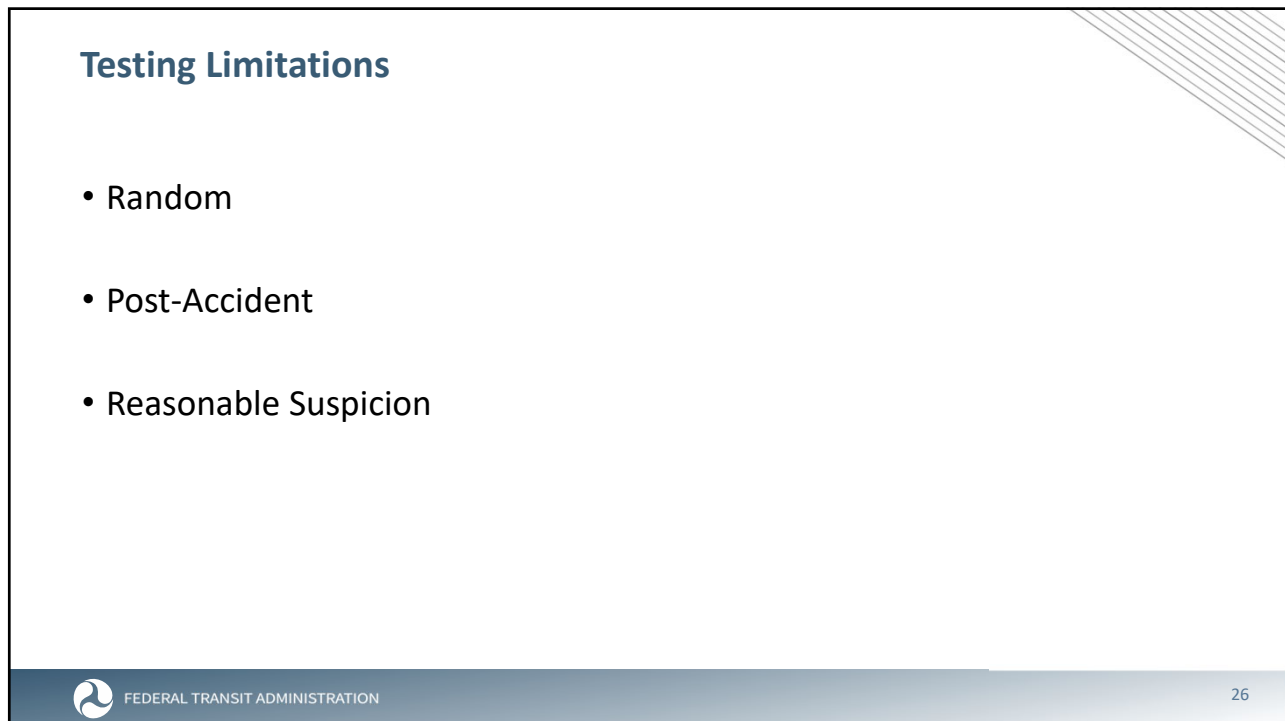


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Testing Limitations

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A presentation slide with a white background and a dark blue footer. The title "Testing Limitations" is centered in the upper left. Below it is a bulleted list with three items: "Random", "Post-Accident", and "Reasonable Suspicion". The footer contains the Federal Transit Administration logo and name on the left, and the number "26" on the right. A decorative hatched pattern is in the top right corner.

Testing Limitations

- Random
- Post-Accident
- Reasonable Suspicion

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Random Testing

- Reasonable testing spread to include:
 - All times of the day that SS functions are performed
 - Outside of “administrative” hours
 - Early morning (especially alcohol) or late evening



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Random Testing

- Reasonable testing spread to include:
 - All days of the week that SS functions are performed
 - Weekends



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Random Testing

- Reasonable testing spread to include:
 - All **weeks of the month**
 - For *monthly selections*: ensure the timeliness of the selection list to include the first/last week of testing period



Random Testing

- Reasonable testing spread to include:
 - All **months of the year**
 - For *quarterly selections*: ensure the timeliness of selection list to include first/last weeks of the testing period



Random Testing

- Schedule tests ahead of time
- Collaborate with others:
 - Get help from supervisors to conduct tests on weekends, or outside regular work hours



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Random Testing

- After hours testing:
 - Hospital/Urgent Care
 - Ensure DOT qualified collectors
 - After-hours agreement with regular collection site
 - Agreement with an individual collector



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Random Testing

- Create your own random testing charts
 - FTA Tools and Resources website

- Update random pool **before** selection
 - Share with others in case of absence

- **Reminder:** At least 50% for drugs, 10% for alcohol

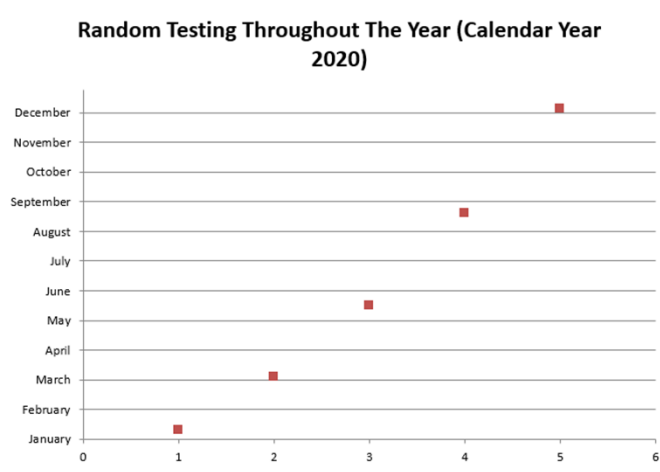


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Random Testing

System with 10 safety sensitive employees:

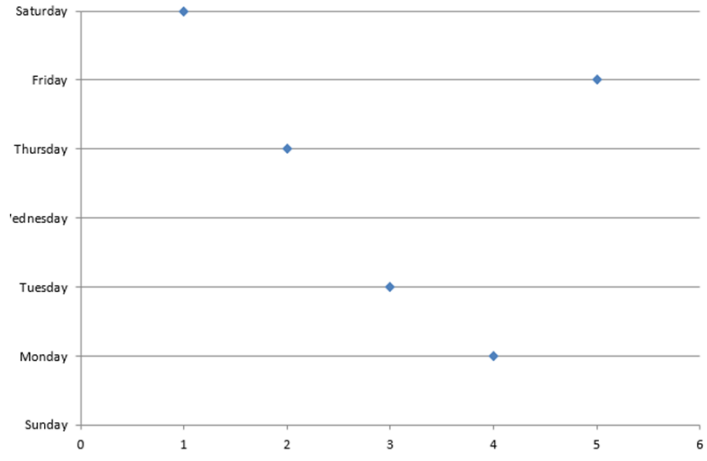
Random Testing Throughout The Year (Calendar Year 2020)



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Random Testing

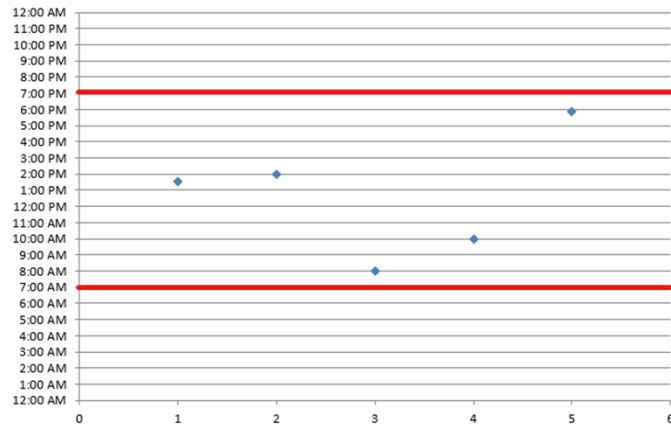
Random Testing Throughout The Week



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Random Testing

Random Testing Throughout The Day



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Post-Accident

- Establish decision making protocols
 - DAPM
 - Dispatch
- Employee immediately reports accident
- Interview employee over the phone
 - Talk to law enforcement, if possible



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Post-Accident

- Take notes in real-time (or fill out form if you have one)
- Walk employee through the steps
 - If testing is required, send them **immediately**
 - Clock starts at the **time of the accident**
 - Not when you make your decision



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Post-Accident

- Aside from thresholds, and employees being tested, your documentation **must** include:
 - **§ 655.44(a)(2)(ii):** If an alcohol test required by this section is not administered within two hours following the accident, the employer shall **prepare and maintain on file a record stating the reasons** the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within **eight hours** following the accident, the employer shall **cease attempts** to administer an alcohol test and **maintain the record**. Records shall be submitted to FTA upon request of the Administrator.



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Post-Accident

- Aside from thresholds, and employees being tested, your documentation **must** include:
 - **§ 655.44(d):** The decision not to administer a drug and/or alcohol test under this section shall be based on the employer's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision **must be documented in detail, including the decision-making process** used to reach the decision not to test.



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Sample Post-Accident Form

FTA Post-Accident Drug and Alcohol Testing Decision Making Form

The Federal Transit Administration (FTA) drug and alcohol testing regulation (49 CFR Part 655) requires that safety-sensitive employees involved in a public transportation vehicle accident (as defined at 655.4 & 655.44) submit to tests for alcohol misuse and prohibited drug use as soon as possible following the accident. Part 655 also requires the testing of any other safety-sensitive employee whose performance could have contributed to the accident, as determined by the employer at the scene using the best information available at the time of the decision.

Accident Information:
 Date of Accident: _____ Time of Accident: _____ AM/PM
 Employee Name: _____ Employee ID/SSN: _____

Decision Questions:

- Was there a fatality?
 _____ YES (FTA drug and alcohol tests are REQUIRED) _____ NO
- If there was NO fatality, answer the following questions:
 1. Has any individual suffered a bodily injury and immediately received medical treatment away from the scene of the accident? _____ YES _____ NO
 2. Was there any disabling damage to any vehicle involved in the accident, requiring the vehicle to be towed away from the scene? _____ YES _____ NO
 3. Was the vehicle (if rail car, trolley car, trolley bus, or vessel) removed from operation? _____ YES _____ NO

If you answered yes to any of these three questions, can you completely discount the performance of the operator of the public transportation vehicle as a contributing factor to the accident?
 _____ NO (FTA drug and alcohol tests are REQUIRED)
 _____ YES, Explain: _____

(If you answered YES, FTA drug and alcohol tests are PROHIBITED)

- Other than the operator, could the performance of any other safety-sensitive employee have contributed to the accident, using the best information available?
 _____ NO
 _____ YES, Explain: _____

(If YES, make arrangements to immediately post-accident test that employee)

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Sample Post-Accident Form

Did You Decide to Perform a Drug or Alcohol Test?
 _____ YES (Complete page 2 of this form) _____ NO (No further action required)

Time of Decision to Conduct a DOT/FTA Post-Accident Test: _____ AM/PM

Testing Information:
 Collection Site Location: _____ Time Arrived: _____ AM/PM

1. Was the alcohol test performed within 2 hours of the time of the accident?
 _____ YES
 _____ NO, Explain: _____
2. Was the alcohol test performed within 8 hours of the time of the accident?
 _____ YES
 _____ NO, Explain: _____
If the alcohol test is not conducted within 8 hours cease all efforts to administer the test.
3. Was the drug test performed within 32 hours of the time of the accident?
 _____ YES
 _____ NO, Explain: _____
If the drug test is not conducted within 32 hours cease all efforts to administer the test.

The above documentation was provided by:
 Supervisor Name: _____ Phone No: _____
 Signature: _____ Date: _____

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Reasonable Suspicion

- Establish decision making protocols
- Must happen in real-time
- DAPM (or supervisor) **must** go to employee's location
 - Face-to-face



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Reasonable Suspicion

- Have employee cease performance of SS functions
- Document signs and symptoms of drug use and/or alcohol misuse upon arrival
- Employees (not authorized) should know who to contact if suspicious



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Sample Reasonable Suspicion Form

Reasonable Suspicion Determination Report

Employee Name: _____ Employee ID/SSN: _____

Date/Time of Observation: ____/____/____ _____ AM/PM

Date/Time of Determination to Test: ____/____/____ _____ AM/PM

Observed Indicators of Prohibited Drug Use/Alcohol Misuse

Reasonable Suspicion determinations must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the safety-sensitive employee.

Check all indicators observed:

Physical Indicators	Behavioral Indicators	Speech Indicators
<input type="checkbox"/> Bloodshot or watery eyes	<input type="checkbox"/> Fidgety/agitated	<input type="checkbox"/> Slurred or slowed speech
<input type="checkbox"/> Flushed or very pale complexion	<input type="checkbox"/> Irregular breathing	<input type="checkbox"/> Loud, boisterous
<input type="checkbox"/> Excessive sweating/skin clamminess	<input type="checkbox"/> Nausea/vomiting	<input type="checkbox"/> Incoherent, nonsensical
<input type="checkbox"/> Dilated or constricted pupils	<input type="checkbox"/> Slow reactions	<input type="checkbox"/> Repetitious, rambling
<input type="checkbox"/> Disheveled clothing/unkept grooming	<input type="checkbox"/> Unstable walking	<input type="checkbox"/> Rapid, pressured
<input type="checkbox"/> Unfocused, blank stare	<input type="checkbox"/> Poor coordination	<input type="checkbox"/> Excessive talkativeness
<input type="checkbox"/> Runny or bleeding nose	<input type="checkbox"/> Hand tremors	<input type="checkbox"/> Exaggerated enunciation
<input type="checkbox"/> Jerky eye movement	<input type="checkbox"/> Suspicious, paranoid	<input type="checkbox"/> Cursing, inappropriate speech
<input type="checkbox"/> Body odor	<input type="checkbox"/> Depressed, withdrawn	<input type="checkbox"/> Inability to concentrate
	<input type="checkbox"/> Lackadaisical attitude	<input type="checkbox"/> Impulsive, unusual rule-taking
	<input type="checkbox"/> Irritable, moody	<input type="checkbox"/> Delayed decision-making
	<input type="checkbox"/> Extreme fatigue	<input type="checkbox"/> Reduced alertness

Written Summary
Summarize the facts and circumstances surrounding the incident. Attach additional sheets as needed.

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Sample Reasonable Suspicion Form

Testing Information:

Collection Site Location: _____ Time Arrived: _____ AM/PM

1. Was the alcohol test performed within 2 hours of the reasonable suspicion determination?

____ YES

____ NO, Explain: _____

2. Was the alcohol test performed within 8 hours of the reasonable suspicion determination?

____ YES

____ NO, Explain: _____

If the alcohol test is not conducted within 8 hours cease all efforts to administer the test.

The above documentation of the observed physical, behavioral, and performance indicators of the named employee was provided by:

Supervisor Name: _____ Phone No: _____

Signature: _____ Date: _____

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Reasonable Suspicion and Post-Accident - Testing Site

- If you are in a pinch:
 - **§ 40.221(e):** If an alcohol testing site fully meeting all the visual and aural privacy requirements of paragraph (c) is not readily available, this part allows a reasonable suspicion or post-accident test to be conducted at a site that partially meets these requirements. In this case, the site must afford visual and aural privacy to the employee to the greatest extent practicable.



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Helpful Resources

- Most resources discussed can be found (for free) at:
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/>

Policy Tools

All anti-drug and alcohol misuse programs must have a statement describing the employer's policy on prohibited drug use and alcohol misuse in the workplace.

Use the [Policy Requirements Checklist](#) to ensure your own policy includes all required elements.

Starting from scratch? Use the [Policy Builder](#) to develop a customized policy statement for your organization.

Sample Forms and Other Useful Tools

Pre-Employment/New Hire

- **New** 60-Minute Drug Awareness Video
- Pre-Employment Notification and Acknowledgement Form
- Previous Employer Release of Information Form
- Acknowledgement of Policy Form
- Acknowledgement of Prohibited Awareness Training for Safety-Sensitive Employees Form

Random

- Random Testing Charts (Generate Random Testing Charts in Excel)

Post-Accident

- Post-Accident Testing Chart
- Decision Making Form
- Order Post-Accident Threshold Cards

Reasonable Suspicion

- Reasonable Suspicion Referral for Drug and Alcohol Testing - Trainer/Trainee Guide
- Reasonable Suspicion Referral for Drug and Alcohol Testing Video
- Acknowledgement of Reasonable Suspicion Training for Supervisors Form
- Order FTA Reasonable Suspicion Cards
- Reasonable Suspicion Determination Report



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Contact me

Craig McNulty

617-314-9208 ext. 4

cmcnulty@cahillswift.com



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