



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

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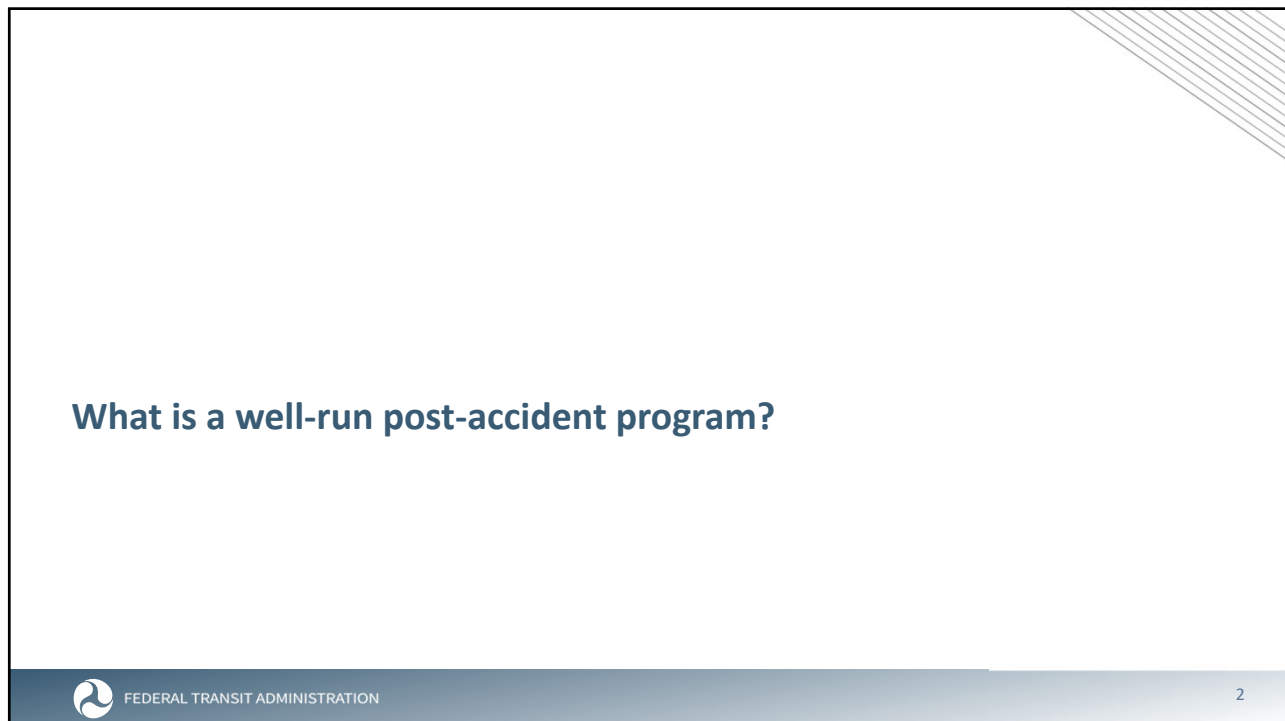
**Well-Run
Post-Accident
Programs**

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FEDERAL TRANSIT ADMINISTRATION


U.S. Department of Transportation
Federal Transit Administration

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What is a well-run post-accident program?

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Well-Run Post-Accident Program

- Tests are completed when, and only when, they should be
- Tests are completed under the correct authority
- Tests are completed as soon as practicable
- Post-accident decisions are properly documented
- Post-accident documentation is properly maintained
- Knowledge of regulations; Employers know how to handle typical and unique situations



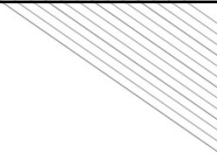
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6 Steps to a Well-Run Post-Accident Program


1. Learn the FTA Post-Accident Regulations
2. Create Tools for Decision Makers
3. Train Decision Makers
4. Establish Best Practice Protocols
5. Review Non-DOT Testing Program (if applicable)
6. Maintain Documentation



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Step 1. Learn the FTA Post-Accident Regulations

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Step 1. Learn the FTA Post-Accident Regulations

- A well-run post-accident testing program relies on knowledge of the regulations
 - 655.4 Definition of accident
 - 655.44 Post-accident testing

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Step 1. Learn the FTA Post-Accident Regulations

- 655.4 Definitions lists the “Accident Thresholds”
 - “Accident means an occurrence associated with the operation of a vehicle, if as a result:
 1. An individual dies; or
 2. An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
 3. With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
 4. With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.”



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Step 1. Learn the FTA Post-Accident Regulations

- 655.4 defines “Disabling Damage”
 - “Disabling damage means damage that precludes departure of a motor vehicle (bus, electric bus, van, or automobile) from the scene of the accident in its usual manner in daylight after simple repairs.”
 - Inclusion:
 - » Damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven.
 - Exclusions:
 - » Damage that can be remedied temporarily at the scene of the accident without special tools or parts.
 - » Tire disablement without other damage even if no spare tire is available.
 - » Headlamp or tail light damage.
 - » Damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.



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Step 1. Learn the FTA Post-Accident Regulations

- § 655.44 (a)(1) Fatal accidents
 - “As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests on each surviving covered employee operating the public transportation vehicle at the time of the accident.”
 - “The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident.”

Step 1. Learn the FTA Post-Accident Regulations

- § 655.44 (a)(2) Nonfatal accidents
 - “As soon as practicable following an accident not involving the loss of human life in which a public transportation vehicle is involved, the employer shall drug and alcohol test each covered employee operating the public transportation vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident.”
 - “The employer shall also drug and alcohol 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 decision.”

Step 1. Learn the FTA Post-Accident Regulations

- § 655.44 (a)(2)(ii) Post-Accident Alcohol Testing Time Limit
 - “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...”



Step 1. Learn the FTA Post-Accident Regulations

- § 655.44(b) Post-Accident Drug Testing Time Limit
 - “An employer shall ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident.”



Step 2. Create Tools for Decision Makers



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Step 2. Create Tools for Decision Makers

• Post-Accident Decision Making Form

Sample Post-Accident Drug and Alcohol Testing Decision Making

EMPLOYER NAME/LOGO

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 in 49 CFR 655.405) submit to tests for alcohol and prohibited drug use as soon as possible following the accident. FTA 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 accident.

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) _____ YES _____ NO involved from operation?

If you answered no to any of these three questions, can you completely disavow 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)

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

Sample Post-Accident Drug and Alcohol Testing Decision Making

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, cover 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, cover all efforts to administer the test.

The above documentation was provided by:

Supervisor Name: _____ Phone No: _____
 Signature: _____ Date: _____



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Step 2. Create Tools for Decision Makers

• Post-Accident Decision Making Form

Decision Questions:

- Was there a fatality? _____ YES (FTA drug and alcohol tests are REQUIRED) _____ NO



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Step 2. Create Tools for Decision Makers

• Post-Accident Decision Making Form

• 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)



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Step 2. Create Tools for Decision Makers

• Post-Accident Decision Making Form

- **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)



Step 2. Create Tools for Decision Makers

• Post-Accident Decision Making Form

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

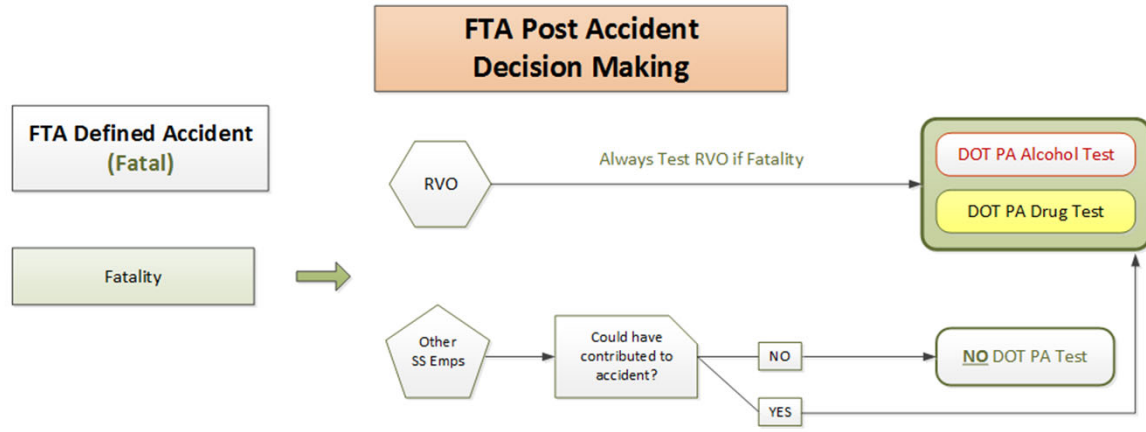
_____ NO, Explain: _____

If the drug test is not conducted within **32 hours** cease all efforts to administer the test.



Step 2. Create Tools for Decision Makers

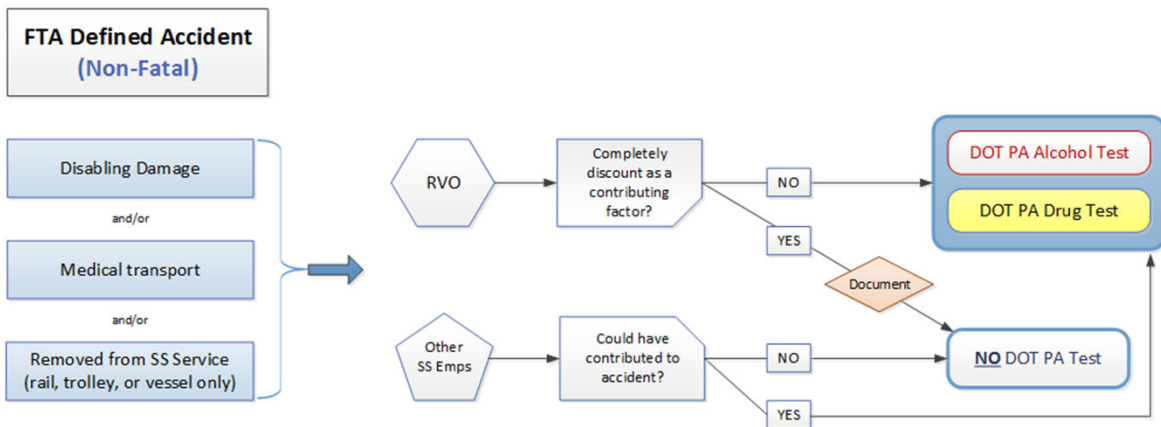
- Decision Making Charts



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Step 2. Create Tools for Decision Makers

- Decision Making Charts



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Step 2. Create Tools for Decision Makers

- Customize Resources
 - Remove non-relevant thresholds (e.g., “Removal from operation”)
 - Dual-mode employers
 - Non-DOT vs. DOT



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Step 2. Create Tools for Decision Makers

- Other Resources
 - Post Accident Thresholds Laminated Cards
 - Electronic Guide / Form
 - Well-written policies
- Other tools implemented by audience?



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Step 3. Train Decision Makers



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Step 3. Train Decision Makers

- Training on the regulations
 - Thresholds
 - Not relevant: Law enforcement citation, insurance firm determination, \$\$ damage, “at fault”, medical attention at scene, supervisor’s discretion, towing without disabling damage, FMCSA testing thresholds
 - What thresholds apply to what vehicle type (e.g., removed from service)
 - Disabling damage
 - “precludes departure of motor vehicle from the scene of the accident”
 - Applicable to transit vehicle or civilian vehicle
 - Time limits
 - Time is measured between time of accident and time of test/collection



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Step 3. Train Decision Makers

- Training on the regulations
 - Discounting for non-fatal incidents
 - Who is tested
 - Operators
 - Anyone that could have contributed
 - Must be conscious
 - Employees that leave the scene



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Step 3. Train Decision Makers

- Training on documentation
 - How to use the decision-making form
 - Decision-making form should determine decision!
 - When form must be filled out
 - Documenting decision to completely discount
 - Calculating delays based on test time recorded on CCF/ATF
 - Form cannot be finished until test results are received



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Step 3. Train Decision Makers

- Consider regular training



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Step 4. Establish Best Practice Protocols



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Step 4. Establish Quality Protocols

- Ensure clear post-accident testing policy
 - Train supervisors and employees on policy & procedures
 - Critical policy point for employees to understand:
 - Failure to remain readily available for testing... may be deemed a refusal to test
 - » Do not delay getting accident response assistance/medical attention!



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Step 4. Establish Quality Protocols

- Establish responsible parties
 - Who will go to accident scene?
 - Who makes decision to test?
 - Who ensures tests can be completed as soon as practicable?
 - Scheduling collection if needed
 - Who ensures tests are actually conducted?
 - Who receives paperwork?
 - Testing paperwork and post-accident decision making forms
- Streamline decision-making
 - Avoid requiring numerous people to weigh in on decision



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Step 4. Establish Quality Protocols

- Make the right testing decision
 - Supervisors equipped with and rely on created forms and tools
 - Empower supervisors to completely discount
 - No blanket testing policies
 - Don't fail to discount because it is "safer" to test

- Fill out and maintain post-accident determination form for all "accidents"



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Step 4. Establish Quality Protocols

- Complete tests quickly
 - Decision to test is made at the scene of the incident based on information available
 - Do not return to headquarters to make call
 - Video footage only impacts decision if available on-site
 - Empower knowledgeable supervisors



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Step 4. Establish Quality Protocols

- Complete tests quickly
 - Have a testing plan in place for all hours & days
 - On-site ASDs
 - In-house collector
 - Mobile collector
 - After-hours collection site
 - Employee proceeds immediately to collection site
 - No return to garage/hq
 - Supervisor manages accident scene when employee can be dismissed



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Step 4. Establish Quality Protocols

- Audit documentation and paperwork
 - Was post-accident decision-making form filled out?
 - Does it indicate if threshold was met?
 - Is there documentation for completely discounted employee?
 - Was a test completed or not completed in accordance with the decision-making form?
 - Correct testing authority?
 - Was testing determination made at scene?
 - Was employee sent for testing as soon as practicable?
 - Could anyone else have contributed to the accident?



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Step 4. Establish Quality Protocols

- Audit documentation and paperwork (continued)
 - Is decision-making form documentation consistent with accident report?
 - Were tests completed in required timeframe?
 - Were testing delays recorded?
 - Very frequent audit finding
 - Time measured from time of accident to time recorded on ATF/CCF
 - Is there documentation for missing tests?
 - Was testing paperwork received?



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Step 4. Establish Quality Protocols

- Stick with your decision
 - Some decisions will fall in gray areas
 - Quality documentation
 - Employees cannot be sent for a test once they have been dismissed from the scene



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Step 5. Review Non-DOT Testing Program (if applicable)



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Step 5. Review Non-DOT Testing Program (if applicable)

- Many employers have non-DOT testing programs
- Advantage:
 - Employer desired testing can occur when a DOT test is inappropriate
- Disadvantage:
 - Often creates more opportunity for error; increased confusion among decision makers



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Step 5. Review Non-DOT Testing Program (if applicable)

- Non-DOT testing cannot take the place of DOT testing
- If implementing a non-DOT program, DOT program takes precedence
 1. Establish decision making procedures that prioritize determining if DOT test is required
 2. (a) If DOT test not required, then determine if non-DOT test is required per employer policy
 - (b) Alternately, you may perform both tests, but DOT test must occur first and non-DOT test must be conducted on separate sample



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Step 5. Review Non-DOT Testing Program (if applicable)

- Ensure clear differentiation between policies, procedures, and documentation
 - Do not let non-DOT policies influence DOT testing decisions
- Ensure employee and collection site is aware of authorizing party



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Step 6. Maintain Documentation



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Step 6. Maintain Documentation

- Post-Accident Testing File
 - Decision-Making Form
 - Was threshold met?
 - Was operator discounted (non-fatal)?
 - » If so, detailed documentation of decision
 - Could anyone else have contributed?
 - Was test completed within required time limits?
 - » If not, why?
 - Copy of accident report and related documentation
 - Pictures, Police Report, etc.



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Step 6. Maintain Documentation

- Post-Accident Testing File
 - ATF
 - CCF
 - MRO Results
 - Documentation of employee's refusal to test by failing to remain readily available for testing
 - Test results obtained from Federal, State, or local officials if DOT test is unable to be conducted



Step 6. Maintain Documentation

- Record Retention Requirements
 - Documents generated in connection with decisions on post-accident drug and alcohol testing must be kept for two years
 - Post-accident determination form
 - Post accident reports
 - ATF, CCF, MRO results must be kept for one or five years, depending on result of test



Resources

- More in-depth presentation from 2021 Conferences
 - https://transit-safety.fta.dot.gov/DrugAndAlcohol/Training/NatConf/2021/Presentations/Post-Accident_Testing_Thresholds_and_Scenarios_Fontanella_2021_Final.pptx
- FTA Post-Accident Testing Determination Sample Form
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/DAPMForms/Forms/Post-Accident%20Decision%20Making%20Form.docx>
- Order Post-Accident Threshold Cards
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/publications/DocumentInfo.aspx?DocID=440>
- Post-Accident Testing Decision Chart
 - <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/Post-Accident/PATestingChart.aspx>

