

CITY OF STEVENS POINT

PERSONNEL COMMITTEE AGENDA

Monday, April 10, 2017 – 6:00 p.m.

Lincoln Center – 1519 Water Street

[A quorum of the City Council may attend this meeting]

Discussion and possible action on:

1. Updated Transit Drug and Alcohol Testing Policy.
2. Adjournment.

Any person who has special needs while attending this meeting or needs agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569 or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during normal business hours from 7:30 a.m. to 4:00 p.m.

April 4, 2017

MEMORANDUM

TO: Personnel Committee Members

FROM: Lisa Jakusz, City Personnel

RE: Updated Transit Drug and Alcohol Testing Policy

Attached for consideration is an updated DOT Drug and Alcohol testing policy for the Transit Division.

In addition to complying with the mandates as specified in the policy, the City is also required to submit an annual report to the Wisconsin Department of Transportation. The report is used to assure compliance with all phases of DOT testing (e.g. random, post-accident, pre-placement, etc.) for Transit employees. If the City is not compliant with Drug and Alcohol testing, the City Transit system could potentially lose state or federal funding.

The City is also subject to a Drug and Alcohol audit to assure compliance with State and federal regulations as it pertains to Drug and Alcohol policies, procedures and testing. The City has gone through one such audit during my tenure, and although it was stressful, only minor findings were identified that were easily and quickly rectified.

As part of the annual reporting referenced above, we receive recommended modifications from the DOT for the testing policy. The revisions before you for consideration are based on those suggestions.

The Transit Manager, Operations Manager and City Attorney have also had an opportunity to review the amendments to the testing policy and are comfortable with them.

Please feel free to contact me with any questions or concerns.

Thank you for your consideration.

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4 **DRUG AND ALCOHOL TESTING POLICY**
5 **CITY OF STEVENS POINT**
6 **Adopted August 19, 2013**
7

8
9 **A. PURPOSE**

10
11 The City of Stevens Point provides both public fixed route transit and para-transit
12 services for the residents of the City of Stevens Point, and the Village of Whiting and
13 Crossroad Commons in Plover. Part of our mission is to ensure that this service is
14 delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work
15 environment, and to ensure that the workplace remains free from the effects of drugs
16 and alcohol in order to promote the health and safety of employees and the general
17 public. In keeping with this mission, the City of Stevens Point declares that the unlawful
18 manufacture, distribution, dispenseing, possession, or use of controlled substances or
19 misuse of alcohol is prohibited for all employees.
20

21 Additionally, the purpose of this policy is to establish guidelines to maintain a
22 drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of
23 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is
24 intended to comply with all applicable Federal regulations governing workplace anti-
25 drug and alcohol programs in the transit industry. Specifically, the Federal Transit
26 Administration (FTA) of the U.S. Department of Transportation has published 49 CFR
27 Part 655, as amended, that mandate urine drug testing and breath alcohol testing for
28 safety-sensitive positions, and prohibit performance of safety-sensitive functions when
29 there is a positive test result. The U. S. Department of Transportation (USDOT) has
30 also published 49 CFR Part 40, as amended, that sets standards for the collection and
31 testing of urine and breath specimens.
32

33 **Copies of Parts 655 and 40 are available in the Transit Department and can**
34 **be found on the internet at the Federal Transit Administration (FTS) Drug and**
35 **Alcohol Program website, <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.**
36

37 Any provisions set forth in this policy that are included under the sole authority of
38 the City of Stevens Point and are not provided under the authority of the above named
39 Federal regulations are underlined.
40

41 **B. APPLICABILITY**
42

43 This Drug and Alcohol Testing Policy applies to all safety-sensitive employees
44 (full- or part-time) when performing any transit-related business. A safety-sensitive
45 function is any duty related to the safe operation of ~~mass transit~~ **public transportation**

46 service including the operation of a revenue service vehicle (whether or not the vehicle
47 is in revenue service), maintenance of a revenue service vehicle or equipment used in
48 revenue service **Maintenance functions include the repair, overhaul, and rebuild of**
49 **engines, vehicles and/or equipment)**, security personnel who carry firearms,
50 dispatchers or person controlling the movement of revenue service vehicles and any
51 other transit employee who **operates a non-revenue service vehicle that requires is**
52 ~~required to hold~~ a Commercial Drivers License (revenue or non-revenue vehicle
53 operation). A list of safety-sensitive positions who perform one or more of the above
54 mentioned duties are provided in Attachment A **B. Supervisors are only safety sensitive**
55 ~~if they perform one of the above functions.~~

56
57 **C. DEFINITIONS**

58
59 *Accident* means an occurrence associated with the operation of a revenue
60 service vehicle even when not in revenue service or a **vehicle** which requires a
61 Commercial Drivers License to operate, if as a result--

- 62
63 (1) An individual dies;
64 (2) An individual suffers a bodily injury and immediately receives medical
65 treatment away from the scene of the accident; or,
66 (3) One or more vehicles incur disabling damage as the result of the
67 occurrence and is transported away from the scene by a tow truck or other
68 vehicle. For purposes of this definition, *disabling damage* means damage,
69 which precludes departure of any vehicle from the scene of the
70 occurrence in its usual manner in daylight after simple repairs. Disabling
71 damage includes damage to vehicles that could have been operated but
72 would have been further damaged if so operated, but does not include
73 damage which can be remedied temporarily at the scene of the
74 occurrence without special tools or parts, tire disablement without other
75 damage even if no spare tire is available, or damage to headlights,
76 taillights, turn signals, horn, mirrors or windshield wipers that makes them
77 inoperative.

78
79 *Adulterated specimen* A specimen that contains a substance that is not
80 expected to be present in human urine, or contains a substance expected to be present
81 but is at a concentration so high that it is not consistent with human urine.

82
83 *Alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other
84 low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy,
85 food, preparation or medication.

86
87 *Alcohol Concentration* is expressed in terms of grams of alcohol per 210 liters of
88 breath as measured by ~~an evidential breath testing device~~ **a test under 49 CFR Part**
89 **40.**

91 ***Aliquot.*** A fractional specimen used for testing. It is taken as a sample
92 representing the whole specimen.
93

94 *Canceled Test* is a drug test that has a **problem identified that cannot be or**
95 **has not been corrected or which is canceled. A canceled test is neither positive**
96 **or negative.** ~~been declared invalid by a Medical Review Officer. A canceled test is~~
97 ~~neither positive nor negative.~~
98

99 *Covered Employee* means an employee who performs a safety-sensitive function
100 including an applicant or transferee whom will be hired to perform a safety-sensitive
101 function (See Attachment A **B** for a list of covered employees), and other employees,
102 applicants, or transferee that will not perform a safety-sensitive function.
103

104 ***Designated Employer Representative (DER).*** This is an employee
105 authorized by the employer to take immediate action(s) to remove employees
106 from safety-sensitive duties, or cause employees to be removed from these
107 covered duties, and to make required decisions in the testing and evaluation
108 process. The DER also receives test results and other communications for the
109 employer.
110

111 ***Department of Transportation (DOT).*** For the purposes of Drug and Alcohol
112 oversight, DOT is the department of the federal government which includes the
113 Federal Administration, Federal Railroad Administration, Federal Highway
114 Administration, Federal Motor Carriers' Safety Administration, Pipeline and
115 Hazardous Materials Safety Administration, United States Coast Guard, and the
116 Office of the Secretary of Transportation.
117

118 *Dilute specimen.* A specimen with creatinine and specific gravity values that
119 are lower than expected for human urine.
120

121 *Disabling damage* means damage, which precludes departure of any vehicle
122 from the scene of the occurrence in its usual manner in daylight after simple repairs.
123 Disabling damage includes damage to vehicles that could have been operated but
124 would have been further damaged if so operated, but does not include damage, which
125 can be remedied temporarily at the scene of the occurrence without special tools or
126 parts, tire disablement without other damage even if no spare tire is available, or
127 damage to headlights, taillights, turn signals, horn, ~~mirrors~~ or windshield wipers that
128 makes them inoperative.
129

130 ***Evidentiary Breath Testing Device (EBT).*** A device approved by the NHTSA
131 for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations.
132 Approved devices are listed on the National Highway Traffic Safety
133 Administration (NHTSA) conforming products list.
134

135 **Initial Drug Test (Screening Drug Test).** The test used to differentiate a
136 negative specimen from one that requires further testing for drugs or drug
137 metabolites.

138
139 **Initial Specimen Validity Test:** The first test used to determine if a urine
140 specimen is adulterated, diluted, substituted or invalid.

141
142 **Invalid Result.** The result reported by an HHS-certified laboratory in
143 accordance with the criteria established by the HHS Mandatory Guidelines when
144 a positive, negative, adulterated, or substituted result cannot be established for a
145 specific drug or specimen validity test.

146
147 **Laboratory.** Any U.S. laboratory certified by HHS under the National
148 Laboratory Certification program as meeting standards of Subpart C of the HHS
149 Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the
150 case of foreign laboratories, a laboratory approved for participation by DOT under
151 this part.

152
153 **Limit of Detection (LOD).** The lowest concentration at which a
154 measurement can be identified, but (for quantitative assays) the concentration
155 cannot be accurately calculated.

156
157 **Limit of Quantitation.** For quantitative assays, the lowest concentration at
158 which the identity and concentration of the measurement can be accurately
159 established.

160
161 **Medical Review Officer (MRO).** ~~means a~~ A licensed physician (medical doctor
162 or doctor of osteopathy) responsible for receiving laboratory results generated by the
163 drug testing program who has knowledge of substance abuse disorders, and has
164 appropriate medical training to interpret and evaluate an individual's confirmed positive
165 test result, together with his/her medical history, and any other relevant bio-medical
166 information.

167
168 **Negative Dilute.** A drug test result which is negative for the five drug/drug
169 metabolites but has a specific gravity value lower than expected for human urine.

170
171 **Negative Result.** The result reported by an HHS-certified laboratory to an
172 MRO when a specimen contains no drug or the concentration of the drug is less
173 than the cutoff concentration for the drug or drug class and the specimen is a
174 valid specimen.

175
176 ~~Negative test result for a drug test means a verified presence of the identified~~
177 ~~drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as~~
178 ~~amended. An alcohol concentration of less than 0.02 BAC is a negative test result.~~
179

180 *Non-negative test result.* **A urine specimen that is reported as adulterated,**
181 **substituted, invalid, or positive for drug/drug metabolites.** ~~is a test result found to~~
182 ~~be adulterated, substitute, invalid, or positive for drug/drug metabolites. Non-negative~~
183 ~~results are considered a positive test or refusal to test if MRO cannot determine~~
184 ~~legitimate medical explanation.~~

185
186 ***Oxidizing Adulterant.* A substance that acts alone or in combination with**
187 **other substances to oxidize drugs or drug metabolites to prevent the detection of**
188 **the drug or metabolites, or affects the reagents in either the initial or confirmatory**
189 **drug test.**

190
191 *Performing (a safety-sensitive function).* ~~means a~~ **A** covered employee is
192 considered to be performing a safety-sensitive function ~~and includes~~ **during** any period
193 in which he or she is actually performing, ready to perform, or immediately available to
194 perform such functions.

195
196 *Positive test result.* ~~for a drug test means a verified presence of the identified~~
197 ~~drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as~~
198 ~~amended. A positive alcohol test result means a confirmed alcohol concentration of~~
199 ~~0.04 BAC or greater. The result reported by an HHS-Certified Laboratory when a~~
200 **specimen contains a drug or drug metabolite equal or greater to the cutoff**
201 **concentrations.**

202
203 *Prohibited drug.* ~~means~~ **Identified as** marijuana, cocaine, opiates, MDMA
204 (Methylenedioxymethamphetamine), amphetamines, or phencyclidine at levels above
205 the minimum thresholds specified in 49 CFR Part 40, as amended.

206
207 ***Reconfirmed.* The result reported for a split specimen when the second**
208 **laboratory is able to corroborate the original result reported for the primary**
209 **specimen.**

210
211 ***Rejected for Testing.* The result reported by an HHS-Certified laboratory**
212 **when no tests are performed for specimen because of a fatal flaw or correctable**
213 **flaw that has not been corrected.**

214
215 *Revenue Service Vehicles.* ~~include~~ All transit vehicles that are used for
216 passenger transportation service or that require a CDL to operate. **Includes all**
217 **ancillary vehicles used in support of the transit system.**

218
219 *Safety-sensitive functions.* ~~include~~ **A safety-sensitive function is any duty**
220 **related to the safe operation of public transportation service including:** (a) the
221 operation of a transit revenue service vehicle **(whether or not the vehicle is in**
222 **revenue service)** ~~even when the vehicle is not in revenue service;~~ (b) the operation of
223 a non-revenue service vehicle by an employee or volunteer when the operation of such
224 a vehicle requires the driver to hold a Commercial Drivers License (CDL) **Volunteers**

225 are considered safety sensitive and subject to testing if they are required to hold
226 a CDL, or remunerated for service in excess of their actual expense; (c)
227 maintaining Maintenance of a revenue service vehicle or equipment used in revenue
228 service. Maintenance functions include the repair, overhaul and rebuild of
229 engines, vehicles and/or equipment; (d) dispatchers or person controlling the
230 movement of revenue service vehicles, and any other transit employee who
231 operates a non-revenue service vehicle that requires a Commercial Driver's
232 License, and (e) Security personnel who carrying a firearm for security purposes.

233
234 **Split Specimen Collection.** A collection in which the urine collected is a
235 divided into two separate bottles, the primary specimen (Bottle A) and the split
236 specimen (Bottle B).

237
238 *Substance Abuse Professional (SAP).* ~~means a~~ A licensed physician (medical
239 doctor or doctor of osteopathy) or licensed or certified psychologist, social worker,
240 employee assistance professional, or addiction **drug and alcohol** counselor certified by
241 the National Association of Alcoholism and Drug Abuse Counselors Certification
242 Commission or by the International Certification Reciprocity Consortium/Alcohol and
243 other Drug Abuse (ICRC), or by the **National Certified Counselors, Inc. and**
244 **Affiliates/Master Addictions Counselor (NBCC)** with knowledge of and clinical
245 experience in the diagnosis and treatment of drug and alcohol related disorders.

246
247 *Substituted specimen.* A urine specimen with creatinine and specific gravity
248 values that are so diminished or so divergent that they are not consistent with normal
249 human urine.

250
251 ~~—————~~ *Test Refusal* ~~The following are considered a refusal to test if the~~
252 ~~employee:~~

- 253 • ~~Fails to appear for any test within a reasonable time, as determined by the~~
254 ~~employer, after being directed to do so by the employer;~~
- 255 • ~~Fails to remain at the testing site until the testing process is complete;~~
- 256 • ~~Fails to sign the certification at Step 2 of the Alcohol Testing Form;~~
- 257 • ~~Fails to provide a urine specimen for any drug test required by Part 40 or DOT~~
258 ~~agency regulations;~~
- 259 • ~~Fails to provide a sufficient amount of urine when directed, and it has been~~
260 ~~determined, through a required medical evaluation, that there was no adequate~~
261 ~~medical explanation for the failure;~~
- 262 • ~~Fails or declines to take a second test the employer or collector has directed you~~
263 ~~to take;~~
- 264 • ~~Fails to undergo a medical examination or evaluation, as directed by the MRO as~~
265 ~~part of the verification process, or as directed by the DER as part of the "shy~~
266 ~~bladder" procedures;~~
- 267 • ~~Fails to cooperate with any part of the testing process (e.g., refuse to empty~~
268 ~~pockets when so directed by the collector, behave in a confrontational way that~~
269 ~~disrupts the collection process).~~

- ~~If the MRO reports that there is verified adulterated or substituted test result,~~
- ~~In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen~~
- ~~Possesses or wears a prosthetic or other device that could be used to interfere with the collection process; and~~
- ~~Admits to the collector or MRO that you adulterated or substituted the specimen.~~

Verified negative test. ~~A means~~ a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (DHHS).

Verified positive test. ~~means a~~ **A** drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing. ~~is~~ The evaluation of the specimen to determine if it is consistent with normal human urine. **Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority.** 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.

D. EDUCATION AND TRAINING

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Part 655, **as amended** and **Part 40, as amended**. ~~In addition,~~ All covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. ~~Under the City of Stevens Point's own authority, supervisory personnel will also be trained on how to intervene constructively, and how to effectively integrate an employee back into his/her work group following intervention and/or treatment.~~

Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in Attachment ~~B~~ **C** of this policy.

Stevens Point Transit will display and distribute to every covered employee informational material and if available, display and distribute a community service hot-line telephone number for employee assistance.

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E. PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy include the following.

(1) Illegally Used Controlled Substance or Drugs under the Drug-Free Workplace Act of 1988. **Use of** any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), ~~MDMA (Methylenedioxymethamphetamine)~~, and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed or over-the-counter drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

Federal Transit Administration drug testing regulations (49 CFR Part 655, **as amended**) require that all covered employees be tested for marijuana, cocaine, amphetamines (**including methamphetamine and ecstasy**), opiates (**including heroin**), ~~MDMA (Methylenedioxymethamphetamine)~~, and ~~phencyclidine as described in Section H of this policy~~. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

(2) Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a City Transit Department supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

(3) Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that cause alcohol to be present in the body while performing safety-sensitive job functions is prohibited. **A reasonable suspicion or random** ~~A~~ alcohol test can **only** be performed on a covered employee under 49 CFR Part 655, **as amended** just before, during, or just after the performance of safety-sensitive job functions. Under City of Stevens Point's authority, an alcohol test can be performed any time a covered employee is on duty.

359 F. PROHIBITED CONDUCT

- 360 (1) All covered employees are prohibited from reporting for duty or remaining
361 on duty any time there is a quantifiable presence of a prohibited drug in
362 the body above the minimum thresholds defined in 49 CFR PART 40, as
363 amended.
- 364 (2) Each covered employee is prohibited from consuming alcohol while
365 performing safety-sensitive job functions or while on-call to perform safety-
366 sensitive job functions. If an on-call employee has consumed alcohol,
367 they must acknowledge the use of alcohol at the time that they are called
368 to report for duty. The covered employee will subsequently be relieved of
369 his/her on-call responsibilities **and subject to discipline for not fulfilling**
370 **his/her on-call responsibilities.**
- 371 (3) The Transit Department shall not permit any covered employee to perform
372 ~~or continue to perform~~ safety-sensitive functions if it has actual knowledge
373 that the employee is using alcohol.
- 374 (4) Each covered employee is prohibited from reporting to work or remaining
375 on duty requiring the performance of safety-sensitive functions while
376 having an alcohol concentration of ~~0.04~~ **0.02** or greater regardless of when
377 the alcohol was consumed.
- 378 (5) No covered employee shall consume alcohol for eight (8) hours following
379 involvement in an accident or until he/she submits to the post-accident
380 drug/alcohol test, whichever occurs first.
- 381 (6) No covered employee shall consume alcohol within four (4) hours prior to
382 the performance of safety-sensitive job functions.
- 383 (7) The City of Stevens Point under its own authority also prohibits the
384 consumption of alcohol during lunch periods, rest breaks, split shift
385 breaks, or anytime the employee is **on duty or** in uniform.
- 386 (8) Consistent with the Drug-free Workplace Act of 1988, all City of Stevens
387 Point employees are prohibited from engaging in the unlawful
388 manufacture, distribution, dispensing, possession, or use of prohibited
389 substances in the work place including Transit Department premises,
390 transit vehicles, while in uniform or while on City of Stevens Point Transit
391 business.

392
393 G. DRUG STATUTE CONVICTION

394 Consistent with the Drug Free Workplace Act of 1988, all employees are required
395 to notify the City of Stevens Point Transit Department management of any criminal drug
396 statute conviction for a violation occurring in the workplace within five days after such
397 conviction. Failure to comply with this provision shall result in disciplinary action as
398 defined in Section ~~Q.40~~ **J** of this policy.

399
400 H. TESTING REQUIREMENTS

401 Analytical urine drug testing and breath testing for alcohol will be conducted as
402 required by 49 CFR part 40 as amended. All covered employees shall be subject to
403 testing prior to **performing safety sensitive duty** employment, for reasonable

404 suspicion, following an accident, and random. ~~as defined in Section K, L, M, and N of~~
405 ~~this policy.~~

406
407 A drug test can be performed any time a covered employee is on duty. **A**
408 **reasonable suspicion or random** ~~An~~ alcohol test can be performed just before, during,
409 or after the performance of a safety-sensitive job function. Under City of Stevens
410 Point's authority, ~~an~~ a non-DOT alcohol test can be performed any time a covered
411 employee is on duty.

412
413 All covered employees will be subject to urine drug testing and breath alcohol
414 testing as a condition of ongoing employment with Stevens Point Transit. Any safety-
415 sensitive employee who refuses to comply with a request for testing shall be removed
416 from duty and subject to discipline as defined in Section J of this policy. ~~Any covered~~
417 ~~employee who is suspected of providing false information in connection with a drug test,~~
418 ~~or who is suspected of falsifying test results through tampering, contamination,~~
419 ~~adulteration, or substitution will be required to undergo an observed collection.~~
420 ~~Verification of the above listed actions will be considered a test refusal and will result in~~
421 ~~the employee's removal from duty and disciplined as defined in Section Q.3 of this~~
422 ~~policy. Refusal can also include an inability to provide a sufficient urine specimen or~~
423 ~~breath sample without a valid medical explanation, as well as a verbal or written~~
424 ~~declaration, obstructive behavior, or physical absence resulting in the inability to~~
425 ~~conduct the test within the specified time frame.~~

426 **Pre-Employment Testing**

427 **All applicants for covered transit positions must undergo USDOT urine drug**
428 **testing prior to the performance of a safety-sensitive function.**

- 429
430
- 431 (1) **A safety sensitive applicant shall not be allowed to perform a safety-**
432 **sensitive duty unless the applicant takes a USDOT pre-employment**
433 **drug test with verified negative results.**
 - 434 (2) **A non-safety sensitive employee shall not be placed, transferred or**
435 **promoted into a covered position until the employee takes a USDOT**
436 **drug test with verified negative results.**
 - 437 (3) **If a safety sensitive applicant fails a pre-employment drug or alcohol**
438 **test, the conditional offer of employment shall be rescinded. Failure**
439 **of a pre-employment drug test will disqualify an applicant for**
440 **employment for a period of at least one year. Before being**
441 **considered for future employment, the applicant must provide the**
442 **employer with proof of having successfully completed a referral,**
443 **evaluation and treatment plan as described in Section 655.62 of**
444 **subpart G. The cost for the assessment and any subsequent**
445 **treatment will be the sole responsibility of the applicant.**
 - 446 (4) **When an employee being placed, transferred, or promoted from a**
447 **non-covered position to a covered position submits a drug test with**

448 a verified positive result, the employee shall be subject to
449 disciplinary action in accordance with Section J.

- 450 (5) If a pre-employment/pre-transfer test is canceled, Stevens Point
451 Transit will require the safety sensitive applicant to take and pass
452 another pre-employment drug test.
- 453 (6) In instances where a safety-sensitive employee has not performed a
454 safety sensitive function for 90 consecutive days or more, regardless
455 of reason, and is not in the random testing pool during that time, the
456 employee will be required to take a pre-employment drug test under
457 49 CFR Part 655, as amended and have negative test results prior to
458 resuming safety-sensitive job functions. The requirement also
459 applies to an applicant with a pre-employment test result that is 90
460 days or more old.
- 461 (7) A safety sensitive applicant with a dilute negative test result will be
462 required to retest. Should this second test result in a negative dilute
463 result, the test will be considered a negative and no additional
464 testing will be required unless directed by the MRO.
- 465 (8) Safety sensitive applicants are required (even if ultimately not hired)
466 to provide their consent to Stevens Point Transit to request FTA drug
467 and alcohol records from all previous, DOT-covered, employers that
468 the safety sensitive applicant has worked for within the last two
469 years. Failure to do so will result in the employment offer being
470 rescinded.
- 471 (9) Stevens Point Transit is required to ask all safety sensitive
472 applicants (even if ultimately not hired) if they have tested positive or
473 refused a pre-employment test for a DOT covered employer within
474 the last two years. If the applicant has tested positive or refused to
475 test on a pre-employment test for a DOT covered employer, the
476 safety sensitive applicant must provide Stevens Point Transit proof
477 of having successfully completed a referral, evaluation and treatment
478 plan as described in section 655.62 of subpart G.

479
480 **Stevens Point Transit reserves the right to re-evaluate the employee's job**
481 **status based on the information received from background checks.**
482

483 **Reasonable Suspicion Testing**

484 **All Stevens Point Transit's safety-sensitive employees will be subject to a USDOT**
485 **reasonable suspicion drug and/or alcohol test when the Transit Provider has**
486 **reasonable suspicion to believe that drug or alcohol use is impacting job**
487 **performance and safety.**
488

489 **Reasonable suspicion shall mean that there is objective evidence, based upon**
490 **specific, contemporaneous, articulable observations of the employee's**
491 **appearance, behavior, speech or body odor that are consistent with possible**
492 **drug use and/or alcohol misuse.**

493 Reasonable suspicion referrals must be made by one or more supervisors who
494 are trained to detect the signs and symptoms of drug and alcohol use, and who
495 reasonably concludes that an employee may be adversely affected or impaired in
496 his/her work performance due to possible prohibited substance abuse or alcohol
497 misuse.

498
499 A reasonable suspicion alcohol test can only be conducted just before, during, or
500 just after the performance of a safety-sensitive job function. However, under the
501 Transit Provider's authority, a non-DOT reasonable suspicion alcohol test may be
502 performed any time the covered employee is on duty.

503
504 A reasonable suspicion drug test can be performed any time the covered
505 employee is on duty.

506
507 Transit Provider shall be responsible for transporting the employee to the testing
508 site. Supervisors should avoid placing themselves and/or others in a situation
509 which might endanger the physical safety of those present. The employee shall
510 be placed on administrative leave pending disciplinary action described in
511 Section J of this policy.

512
513 A safety sensitive employee who refuses an instruction to submit to a
514 drug/alcohol test shall not be permitted to finish his or her shift and shall
515 immediately be placed on administrative leave pending disciplinary action as
516 specified in Section J of this policy.

517
518 A written record of the observations, which led to a drug/alcohol test, based on
519 reasonable suspicion shall be prepared and signed by the supervisor making the
520 observation. This written record shall be submitted to Designated Employer
521 Representative (DER) and shall be attached to the forms reporting the test
522 results.

523
524 All non-safety-sensitive employees covered under the sole authority of Stevens
525 Point Transit will also be subject to non-USDOT reasonable suspicion testing
526 procedures modeled off the provisions in 49 CFR Part 655 and Part 40.

527
528 When there are no specific, contemporaneous, articulable objective facts that
529 indicate current drug or alcohol use, but the employee (who is not already a
530 participant in a treatment program) admits the abuse of alcohol or other
531 substances to a supervisor in his/her chain of command, the employee shall be
532 referred to the Employee Assistance Program (EAP) for an assessment. Stevens
533 Point Transit shall place the employee on Administrative Leave in accordance set
534 forth under Section J of this policy. Testing in this circumstance would be
535 performed under the direct authority of Stevens Point Transit.

536

537 Since the employee self-referred to management, testing under this circumstance
538 would not be considered a violation of this policy or a positive test result under
539 Federal authority. However, self-referral does not exempt the covered employee
540 from testing under Federal authority as specified in Section H of this policy or the
541 associated consequences as specified in Section J.

542
543 **Post-Accident Testing**

544 Covered employees shall be subject to post-accident drug and alcohol testing
545 under the following circumstances:

546
547 ***Fatal Accidents***

548 All covered employee will be required to undergo urine and breath testing if they
549 are involved in an accident with a transit revenue service vehicle that results in a
550 fatality regardless of whether or not the vehicle is in revenue service. This
551 includes all surviving covered employees that are operating the vehicle at the
552 time of the accident and any other employee whose performance may have been
553 a contributing factor to the accident.

554
555 ***Non-Fatal Accidents***

556 A post-accident test will be conducted if an accident results in injuries requiring
557 immediate transportation to a medical treatment facility or one or more vehicles
558 incurs disabling damage, unless the covered employees' performance can be
559 completely discounted as a contributing factor to the accident.

560
561 As soon as practicable following an accident, as defined in this policy, the Transit
562 Supervisor investigating the accident will:

- 563
564 (1) Notify the transit employee operating the transit vehicle and all other
565 covered employees whose performance could have contributed to
566 the accident of the need for the test. The supervisor will make the
567 determination using the best information available at the time of the
568 decision.
- 569
570 (2) Ensure that an employee, required to be tested under this section, is
571 tested as soon as practicable following the accident, but no longer
572 than eight (8) hours after the accident for alcohol, and no longer than
573 32 hours after the accident for drugs. If an alcohol test is not
574 performed within two hours of the accident, the Supervisor will
575 document the reason(s) for the delay. If the alcohol test is not
576 conducted within (8) eight hours, or the drug test within 32 hours,
577 attempts to conduct the test must cease and the reasons for the
578 failure to test documented.
- 579

- 580 (3) **Inform any covered employee involved in an accident they must**
581 **refrain from alcohol use for eight (8) hours following the accident, or**
582 **until he/she undergoes a post-accident alcohol test.**
583

584 **An employee who is subject to post-accident testing who fails to remain readily**
585 **available for such testing, including notifying a supervisor of his or her**
586 **location if he or she leaves the scene of the accident prior to submission to**
587 **such test, may be deemed to have refused to submit to testing.**
588

589 **Nothing in this section shall be construed to require the delay of necessary**
590 **medical attention for the injured following an accident, or to prohibit an**
591 **employee from leaving the scene of an accident for the period necessary to**
592 **obtain assistance in responding to the accident, or to obtain necessary**
593 **emergency medical care.**
594

595 **In the rare event that Stevens Point Transit is unable to perform an FTA drug**
596 **and alcohol test (i.e., employee is unconscious, employee is detained by law**
597 **enforcement agency), Stevens Point Transit may use drug and alcohol post-**
598 **accident test results administered by local law enforcement officials in lieu of**
599 **the FTA test. The local law enforcement officials must have independent**
600 **authority for the test and Stevens Point Transit must obtain the results in**
601 **conformance with local law.**
602

603 **Random Testing** 604

605 **All covered employees will be subjected to random, unannounced testing. The**
606 **selection of employees shall be made by a scientifically valid method of randomly**
607 **generating an employee identifier from the appropriate pool of safety-sensitive**
608 **employees. *Non-safety-sensitive employees covered under Stevens Point***
609 ***Transit's authority will be selected from a pool of non-USDOT covered***
610 ***employees.***
611

- 612 (1) **The dates for administering unannounced testing of randomly**
613 **selected employees shall be spread reasonably throughout the**
614 **calendar year, day of the week and hours of the day.**
615
- 616 (2) **The number of employees randomly selected for drug/alcohol testing**
617 **during the calendar year shall be not less than the percentage rates**
618 **established by Federal regulations for those safety-sensitive**
619 **employees subject to random testing by Federal regulations. The**
620 **random testing rate for drugs is published each year by ODAPC**
621 **(<http://www.dot.gov/ost/dapc/random-testingprates.html>) and/or in**
622 **the Federal Register.**
623

- 624 (3) Each covered employee shall be in a pool from which the random
625 selection is made. Each covered employee in the pool shall have an
626 equal chances of selection each time the selections are made.
627 Employees will remain in the pool and subject to selection, whether
628 or not the employee has been previously tested. There is no
629 discretion on the part of management in the selection.
630
- 631 (4) Random testing may occur anytime an employee is on duty.
632
- 633 (5) Alcohol random tests can only be performed just before, during, or
634 after the performance of a safety-sensitive duty. However, under
635 Stevens Point Transit's authority, a non-USDOT random alcohol test
636 may be performed any time employee is on duty. Testing can occur
637 during the beginning, middle or end of an employee's shift.
638 (6) Employees are required to proceed immediately to the collection site
639 upon notification of their random selection.
640

641 Return-To-Duty-Testing

642 All covered employees who previously tested positive on a drug or alcohol test or
643 refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and
644 be evaluated and released by the Substance Abuse Professional before returning to
645 work.
646

647 For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test
648 is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required
649 and a drug test is allowed. Following the initial assessment, the SAP will recommend a
650 course of rehabilitation unique to the individual.
651

652 The SAP should schedule the return-to-duty test only when the employee is known to
653 be drug- and alcohol-free and there is no risk to public safety.
654

655 Follow Up Testing

656 Covered employees will be required to undergo frequent, unannounced drug and
657 alcohol testing following their return-to-duty. The follow-up testing will be performed for
658 a period of one to five years with a minimum of six tests to be performed the first year.
659

660 The frequency and duration of the follow-up tests (beyond the minimums) will be
661 determined by the SAP reflecting the SAP's assessment of the employee's unique
662 situation and recovery progress. Follow-up testing should be frequent enough to deter
663 and/or detect a relapse. Follow-up testing is separate and in addition to the random,
664 post-accident, reasonable suspicion and return-to-duty testing.
665
666
667
668

669 I. TESTING PROCEDURES

670

671 **Drug Testing Procedures**

672 Testing shall be conducted in a manner to assure a high degree of accuracy and
673 reliability and using techniques, equipment, and laboratory facilities, which have been
674 approved, by the U.S. Department of Health and Human Service (DHHS). All testing
675 will be conducted consistent with the procedures set forth in 49 CFR Part 40, as
676 amended. The procedures will be performed in a private, confidential manner and
677 every effort will be made to protect the employee, the integrity of the drug testing
678 procedure, and the validity of the test result.

679

680 Specimen validity testing will be conducted on all urine specimens provided for testing
681 under DOT authority. Specimen validity testing is the evaluation of the specimen to
682 determine if it is consistent with normal human urine. The purpose of validity testing is to
683 determine whether certain adulterants or foreign substances were added to the urine, if
684 the urine was diluted, or if the specimen was substituted.

685

686 The drugs that will be tested for include:

687 *Marijuana

688 *Cocaine

689 *Opiates (**including codeine, morphine, and heroin**)

690 *Amphetamine (**including methamphetamine and ecstasy**), and

691 *Phencyclidine, ~~Methylenedioxyamphetamine (MDMA).~~

692

693 **Cutoff levels regarding initial test cutoff levels and confirmatory test cutoff levels**
694 **adhere to 49 CFR Part 40, as amended.**

695

696 After the identity of the donor is checked using picture identification, a urine specimen
697 will be collected using the split specimen collection method described in 49 CFR Part
698 40, as amended.

699

700 Each specimen will be accompanied by a DOT ~~Chain of Custody~~ and Control Form and
701 identified using a unique identification number that attributes the specimen to the correct
702 individual.

703

704 The specimen analysis will be conducted at a DHHS certified laboratory. An initial drug
705 screen and validity test will be conducted on the primary urine specimen. For those
706 specimens that are not negative, a confirmatory Gas Chromatography/Mass
707 Spectrometry (GC/MS) test will be performed.

708

709 The test will be considered positive if the amounts of the drug(s) and/or its metabolites
710 identified by the GC/MS test are above the minimum thresholds established in 49 CFR
711 Part 40, as amended. A non-negative test result (adulterated, substituted, and/or
712 invalid) without a legitimate medical explanation (determined by a MRO) is also
713 considered positive.

714 The test results from the DHHS certified laboratory will be reported to a Medical Review
715 Officer. A Medical Review Officer (MRO) is a licensed physician with detailed
716 knowledge of substance abuse disorders and drug testing. The MRO will review the
717 test results to ensure the scientific validity of the test and to determine whether there is
718 a legitimate medical explanation for a confirmed positive, substitute, or adulterated test
719 result. The MRO will attempt to contact the employee to notify the employee of the non-
720 negative laboratory result, and provide the employee with an opportunity to explain the
721 confirmed laboratory test result. The MRO will subsequently review the employee's
722 medical history/ medical records as appropriate to determine whether there is a
723 legitimate medical explanation for a non-negative laboratory result. If no legitimate
724 medical explanation is found, the test will be verified positive or refusal to test and
725 reported to the City of Stevens Point's Drug and Alcohol Program Manager (DAPM). If
726 a legitimate explanation is found, the MRO **has the responsibility to raise fitness-for-**
727 **duty considerations with Stevens Point Transit during the verification process.**
728 **Once verified, the MRO** will report the test result as negative to the DAPM and no
729 further action will be taken. If the test is invalid with out a medical explanation, a retest
730 will be conducted under direct observation. **Employees do not have access to a test**
731 **of their split specimen following an invalid result.**

732 733 *Split Sample Test*

734 Any covered employee who questions the results of a required drug test ~~under~~
735 ~~paragraphs L through P of as stated in~~ this policy may request that the split sample be
736 tested. The split sample test must be conducted at a ~~second~~ **different** DHHS-certified
737 laboratory with no affiliation with the laboratory that analyzed the primary specimen.
738 The test must be conducted on the split sample that was provided by the employee at
739 the same time as the primary sample. The method of collecting, storing, and testing the
740 split sample will be consistent with the procedures set forth in 49 CFR Part 40, as
741 amended. The employee's request for a split sample test must be made to the Medical
742 Review Officer within 72 hours of notice of the original sample verified test result.
743 Requests after 72 hours will only be accepted at the discretion of the MRO if the delay
744 was due to documentable facts that were beyond the control of the employee. The City
745 of Stevens Point will ensure that the cost for the split specimen is covered in order for a
746 timely analysis of the sample;_however the City will seek reimbursement for the split
747 sample test from the employee **if the result of the split specimen analysis confirms**
748 **the original result.**

749
750 If the analysis of the split specimen fails to confirm the presence of the drug(s) detected
751 in the primary specimen, if the split specimen is not able to be analyzed, or if the results
752 of the split specimen are not scientifically adequate, the MRO will declare the original
753 test to be canceled. **If the split specimen is not available to analyze, the MRO** ~~and~~
754 ~~will direct St. Michael's Hospital Occupational Health Department~~ **Stevens Point**
755 **Transit** to retest the employee under direct observation.

756
757 The split specimen will be stored at the initial laboratory until the analysis of the primary
758 specimen is completed. If the primary specimen is negative, the split will be discarded.

759 If the primary is positive, adulterated, or substituted, the split will be retained for testing
760 if so requested by the employee through the Medical Review Officer. If the primary
761 specimen is positive, it will be retained in frozen storage for one year and the split
762 specimen will also be retained for one year **for testing if so requested by the**
763 **employee through the Medical Review Officer, Stevens Point Transit or by the**
764 **relevant DOT agency.**

765
766 ***Direct Observation Conditions***

767
768 **Stevens Point Transit must direct an immediate collection under direct**
769 **observation, by a person of the same gender, with no advance notice to the**
770 **employee, if:**

771 ~~Observed collections~~

772
773
774 ~~Consistent with 49 CFR part 40 collection under direct observation (by a person of the~~
775 ~~same gender) with no advance notice will occur if:~~

- 776 (1) The laboratory reports to the MRO that a specimen is invalid, and the MRO
777 reports ~~to the City of Stevens Point's DAPM~~ that there was not an adequate medical
778 explanation for the result; ~~or~~
- 779 (2) The MRO reports ~~to the City of Stevens Point's DAPM~~ that the original positive,
780 adulterated, or substituted ~~test~~ result had to be cancelled because the test of the split
781 specimen could not be performed;
- 782 **(3) The laboratory reports to the MRO that the specimen was negative-dilute**
783 **with a creatinine concentration greater than or equal to 2mg/dL but less than or**
784 **equal to 5 mg/dL, and the MRO reports the specimen as negative-dilute and that a**
785 **second collection must take place under direct observation (see SS 40.197(b)(1));**
786 ~~—(b) The City of Stevens Point may direct a collection under direct observation of an~~
787 ~~employee if the drug test is a return-to-duty test or a follow-up test.~~
- 788 ~~(c) The collector, must immediately conduct a collection under direct observation if:~~
789 ~~—They are directed by the employer to do so; or~~
- 790 ~~—(2) (4) The collector observes materials brought to the collection site or the~~
791 ~~employee's conduct clearly indicates an attempt to tamper with a specimen; ~~or~~~~
- 792 (5) The temperature on the original specimen was out of range;
- 793 **(6) Anytime the employee is directed to provide another specimen because the**
794 **original specimen appeared to have been tampered with or;**
- 795 **(7) The test is a return-to-duty test or follow-up test.**

796
797 ***Direct Observation Criteria***

798 The employee who is being observed will be required to raise his or her shirt, blouse, or
799 dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show
800 the collector, by turning around that they do not have a prosthetic device. **The direct**
801 **observation must be conducted by a person of the same gender as the employee**
802 **being tested.**

803
804

805
806 ~~Observed collections may be required in the following circumstances:~~

- 807 ~~▪ All return-to-duty tests~~
- 808 ~~▪ All follow-up tests;~~
- 809 ~~▪ Anytime the employee is directed to provide another specimen because the~~
810 ~~temperature on the original specimen was out of the accepted temperature range~~
811 ~~of 90°F - 100°F;~~
- 812 ~~▪ Anytime the employee is directed to provide another specimen because the~~
813 ~~original specimen appeared to have been tampered with;~~
- 814 ~~▪ Anytime a collector observes materials brought to the collection site or the~~
815 ~~employee's conduct clearly indicates an attempt to tamper with a specimen;~~
- 816 ~~▪ Anytime the employee is directed to provide another specimen because the~~
817 ~~laboratory reported to the MRO that the original specimen was invalid and the~~
818 ~~MRO determined that there was not an adequate medical explanation for the~~
819 ~~result;~~
- 820 ~~▪ Anytime the employee is directed to provide another specimen because the MRO~~
821 ~~determined that the original specimen was positive, adulterated or substituted, but~~
822 ~~had to be cancelled because the test of the split specimen could not be~~
823 ~~performed.~~

824
825 ~~The employee who is being observed will be required to raise his or her shirt, blouse, or~~
826 ~~dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show~~
827 ~~the collector, by turning around that they do not have a prosthetic device.~~

828 829 Split Specimen Testing

830
831 ~~Employees do not have access to a test of their split specimen following an invalid~~
832 ~~result.~~

833 834 ~~Negative Dilute or Positive Dilute~~

835 **Following a negative dilute the employee will be required to undergo another test.**
836 **Should this second test result in a negative dilute result, the test will be**
837 **considered a negative and no additional testing will be required unless directed**
838 **by the MRO.**

839 ~~A dilute specimen is a specimen with creatinine and specific gravity values that are~~
840 ~~lower than expected for human urine. If the test is reported as a dilute positive, the test~~
841 ~~should be treated as a verified positive test result. If the test is reported as a negative~~
842 ~~dilute, the City of Stevens Point will direct the employee to take another test. The retest~~
843 ~~must not be conducted under direct observation, unless otherwise instructed by the~~
844 ~~MRO. Since federal regulations give discretion in this matter, the City of Stevens Point~~
845 ~~has established the policy that retests will be required for negative dilutes. The second~~
846 ~~test will be considered the test of record. All employees must be treated the same for~~
847 ~~this purpose and must be informed in advance of the policy. Questions should be~~
848 ~~directed to the MRO or Drug and Alcohol TPA.~~

Alcohol Testing Procedures

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT).

Alcohol screening tests may be performed using a non-evidential testing device, which is also approved by NHSTA. **The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the privacy of the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.**~~be performed to confirm the results of the initial test.~~

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.

The confirmatory test must occur **using a NHTSA-approved** on an EBT **operated by a trained BAT.**

The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test.

~~The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT.~~

The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee.

~~The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.~~

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section ~~Q.4-5~~ **J** of this policy.

Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section ~~Q.9~~ **J** of this policy.

An alcohol concentration of less than 0.02 will be considered a negative test.

895
896 The City Transit Department affirms the need to protect individual dignity, privacy, and
897 confidentiality throughout the testing process. If at any time the integrity of the testing
898 procedures or the validity of the test results is compromised, the test will be canceled.
899 Minor inconsistencies or procedural flaws that do not impact the test result will not result
900 in a cancelled test.

901
902 **The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be**
903 **used for all FTA required testing. Failure of an employee to sign Step 2 of the**
904 **ATF will be considered a refusal to submit to testing.**

905
906 ~~K. PRE-EMPLOYMENT TESTING~~

907
908 ~~All applicants for covered transit positions shall undergo urine drug testing and~~
909 ~~breath alcohol testing prior to hire or transfer into a covered position that requires the~~
910 ~~performance of a safety-sensitive function.~~

911 ~~(1) All offers of employment for covered positions shall be extended~~
912 ~~conditional upon the applicant passing a drug test. An applicant shall not~~
913 ~~be allowed to perform a safety-sensitive duty unless the applicant takes a~~
914 ~~drug test with verified negative results, and an alcohol concentration below~~
915 ~~.02.~~

916 ~~(2) A non-covered employee shall not be placed, transferred or promoted into~~
917 ~~a covered position until the employee takes a drug test with verified~~
918 ~~negative results and an alcohol concentration below 0.02 in accordance~~
919 ~~with 49 CFR Part 40 as amended:~~

920
921 ~~_____ A DOT-regulated employer (except under USCG and RSPA rules) wishing~~
922 ~~to conduct pre-employment alcohol testing under DOT authority may do~~
923 ~~so if certain requirements are met.~~

924
925 ~~_____ *The testing must be accomplished for all applicants (i.e. the~~
926 ~~employer cannot select for testing some applicants and not~~
927 ~~others) and the testing must be conducted as a post-offer~~
928 ~~requirement.~~

929
930 ~~_____ *In addition the testing and its consequences must comply~~
931 ~~with Part 40 as amended.~~

932
933 ~~(3) If an applicant fails a pre-employment drug or alcohol test, the conditional~~
934 ~~offer of employment shall be rescinded. Failure of a pre-employment drug~~
935 ~~test will disqualify an applicant for employment for a period of at least one~~
936 ~~year. Evidence of the absence of drug dependency from a Substance~~
937 ~~Abuse Professional that meets with 49 CFR Part 40 as amended and a~~
938 ~~negative pre-employment drug test and an alcohol concentration below~~
939 ~~0.02 will be required prior to further consideration for employment. The~~

940 cost for the assessment and any subsequent treatment will be the sole
941 responsibility of the applicant.

942 (4) ~~When an employee being placed, transferred, or promoted from a non-~~
943 ~~covered position to a covered position submits a drug test with a verified~~
944 ~~positive result, or an alcohol concentration of 0.02 or above, the employee~~
945 ~~shall be subject to disciplinary action in accordance with Section Q.4-5~~
946 ~~and 9 herein.~~

947 (5) ~~If a pre-employment/pre-transfer test is canceled, the City of Stevens~~
948 ~~Point will require the applicant to take and pass another pre-employment~~
949 ~~drug and alcohol test.~~

950 (6) ~~In instances where a covered employee is on extended leave for a period~~
951 ~~of 90 days or more, and has been removed from the random pool, the~~
952 ~~employee will be required to take a drug test under 49 CFR Part 655 and~~
953 ~~have negative test results prior to the conduct of safety-sensitive job~~
954 ~~functions. This requirement also applies to an applicant with a pre-~~
955 ~~employment test result with a shelf life of 90 days or more.~~

956 (7) ~~An applicant with a dilute negative test result will be required to retest.~~

957
958 ~~If a new applicant performed safety-sensitive transportation work that was covered by a~~
959 ~~DOT agency within the previous two years, the City of Stevens Point will check the~~
960 ~~applicant's drug and alcohol testing record with written consent in accordance with 49~~
961 ~~CFR Part 40.25. The City of Stevens Point reserves the right to re-evaluate the~~
962 ~~employees job status based on the information received from the background checks.~~

963 964 ~~L. REASONABLE SUSPICION TESTING~~

965
966 ~~All City of Stevens Point covered employees will be subject to a reasonable~~
967 ~~suspicion drug and/or alcohol test when there are reasons to believe that drug or~~
968 ~~alcohol use is impacting job performance and safety. Reasonable suspicion shall mean~~
969 ~~that there is objective evidence, based upon specific, contemporaneous, articulable~~
970 ~~observations of the employee's appearance, behavior, speech or body odor that are~~
971 ~~consistent with possible drug use and/or alcohol misuse. Reasonable suspicion~~
972 ~~referrals must be made by one supervisor who is trained to detect the signs and~~
973 ~~symptoms of drug and alcohol use, and who reasonably concludes that an employee~~
974 ~~may be adversely affected or impaired in his/her work performance due to possible~~
975 ~~prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can~~
976 ~~only be conducted just before, during, or just after the performance of a safety-sensitive~~
977 ~~job function. However, under the City of Stevens Point's authority, a reasonable~~
978 ~~suspicion alcohol test may be performed any time the covered employee is on duty. A~~
979 ~~reasonable suspicion drug test can be performed any time the covered employee is on~~
980 ~~duty.~~

981
982 ~~The City of Stevens Point shall be responsible for transporting the employee to~~
983 ~~the testing site. Supervisors should avoid placing themselves and/or others into a~~
984 ~~situation, which might endanger the physical safety of those, present. The employee~~

985 shall be placed on administrative leave pending disciplinary action described in Section
986 Q.4-5 and 9 of this policy. An employee who refuses an instruction to submit to a
987 drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be
988 placed on administrative leave pending disciplinary action as specified in Section Q.3 of
989 this policy.

990
991 A written record of the observations, which led to a drug/alcohol test, based on
992 reasonable suspicion shall be prepared and signed by the supervisor making the
993 observation prior to the release of the test results. This written record shall be
994 submitted to the City's DER and shall be attached to the forms reporting the test results.
995

996 When there are no specific, contemporaneous, articulable objective facts that
997 indicate current drug or alcohol use, but the employee (who is not already a participant
998 in a treatment program) admits the abuse of alcohol or other substances to a supervisor
999 in his/her chain of command, the employee shall be referred to the Substance Abuse
1000 Professional (SAP)/Employee Assistance Program (EAP) for an assessment. The City
1001 of Stevens Point shall place the employee on administrative leave in accordance with
1002 the provisions set forth under Section Q.9 of this policy. Testing in this circumstance
1003 would be performed under the direct authority of the City of Stevens Point. Since the
1004 employee self-referred to management, testing under this circumstance would not be
1005 considered a violation of this policy or a positive test result under Federal authority.
1006 However, self-referral does not exempt the covered employee from testing under
1007 Federal authority as specified in Sections L through N of this policy or the associated
1008 consequences as specified in Section Q.9.

1009
1010
1011 M. POST-ACCIDENT TESTING

1012
1013 All covered employees will be required to undergo urine and breath testing if they
1014 are involved in an accident with a transit revenue service vehicle regardless of whether
1015 or not the vehicle is in revenue service that results in a fatality. This includes all
1016 surviving covered employees that are operating the vehicle at the time of the accident
1017 and any other whose performance cannot be completely discounted as a contributing
1018 factor to the accident.

1019
1020 In addition, a post-accident test will be conducted if an accident results in injuries
1021 requiring immediate transportation to a medical treatment facility; or one or more
1022 vehicles incurs disabling damage, unless the operators' performance cannot be
1023 completely discounted as a contributing factor to the accident.

- 1024
1025
1026 (1) As soon as practicable following an accident, as defined in this policy, the
1027 transit supervisor investigating the accident will notify the transit employee
1028 operating the transit vehicle and all other covered employees whose
1029 performance could have contributed to the accident of the need for the

1030 test. The supervisor will make the determination using the best
1031 information available at the time of the decision.

1032 (2) The appropriate transit supervisor shall ensure that an employee, required
1033 to be tested under this section, is tested as soon as practicable, but no
1034 longer than eight (8) hours of the accident for alcohol, and within 32 hours
1035 for drugs. If an alcohol test is not performed within two hours of the
1036 accident, the Supervisor will document the reason(s) for the delay. If the
1037 alcohol test is not conducted within (8) eight hours, or the drug test within
1038 32 hours, attempts to conduct the test must cease and the reasons for the
1039 failure to test documented.

1040 (3) Any covered employee involved in an accident must refrain from alcohol
1041 use for eight (8) hours following the accident, or until he/she undergoes a
1042 post-accident alcohol test.

1043 (4) An employee who is subject to post-accident testing who fails to remain
1044 readily available for such testing, including notifying a supervisor of his or
1045 her location if he or she leaves the scene of the accident prior to
1046 submission to such test, may be deemed to have refused to submit to
1047 testing.

1048 (5) Nothing in this section shall be construed to require the delay of necessary
1049 medical attention for the injured following an accident, or to prohibit an
1050 employee from leaving the scene of an accident for the period necessary
1051 to obtain assistance in responding to the accident, or to obtain necessary
1052 emergency medical care.

1053 (6) In the rare event that St. Michael's Hospital, Occupational Health
1054 Department is unable to perform an FTA drug and alcohol test (i.e.,
1055 employee is unconscious, employee is detained by law enforcement
1056 agency), the City of Stevens Point may use drug and alcohol post-
1057 accident test results administered by local law enforcement officials in lieu
1058 of the FTA test. The local law enforcement officials must have
1059 independent authority for the test and the employer must obtain the results
1060 in conformance with local law.

1061
1062 N. RANDOM TESTING

1063
1064 All covered employees will be subjected to random, unannounced testing. The
1065 selection of employees shall be made by a scientifically valid method of randomly
1066 generating an employee identifier from the appropriate pool of safety-sensitive
1067 employees.

1068 (1) The dates for administering unannounced testing of randomly selected
1069 employees shall be spread reasonably throughout the calendar year.

1070 (2) The number of employees randomly selected for drug/alcohol testing
1071 during the calendar year shall be not less than the percentage rates
1072 established by Federal regulations for those safety-sensitive employees
1073 subject to random testing by Federal regulations. The random testing rate
1074 for drugs is published each year by ODAPG

1075 ~~(<http://www.dot.gov/ost/dapc/oamanagers.html>) and/or in the Federal~~
1076 ~~Register. The number of covered employees in the pool and the random~~
1077 ~~testing rate for alcohol established by FTA equals ten percent of the~~
1078 ~~number of covered employees in the pool.~~

1079 ~~(3) Each covered employee shall be in a pool from which the random~~
1080 ~~selection is made. Each covered employee in the pool shall have an~~
1081 ~~equal chance of selection each time the selections are made. Employees~~
1082 ~~will remain in the pool and subject to selection, whether or not the~~
1083 ~~employee has been previously tested. There is no discretion on the part~~
1084 ~~of management in the selection and notification of the individuals who are~~
1085 ~~to be tested.~~

1086 ~~(4) Covered transit employees that fall under the Federal Transit~~
1087 ~~Administration regulations will be included in one random pool maintained~~
1088 ~~separately from the testing pool of employees that are included solely~~
1089 ~~under the City of Stevens Point's authority.~~

1090 ~~(5) Random tests can be conducted at any time during an employee's shift for~~
1091 ~~drug testing. Alcohol random tests can be performed just before, during,~~
1092 ~~or just after the performance of a safety sensitive duty. However, under~~
1093 ~~the City of Stevens Point's authority, a random alcohol test may be~~
1094 ~~performed any time the covered employee is on duty. Testing can occur~~
1095 ~~during the beginning, middle, or end of an employee's shift.~~

1096 ~~(6) Employees are required to proceed immediately to the collection site upon~~
1097 ~~notification of their random selection.~~

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1099
1100 ~~P.~~

1101
1102 **Q.J RESULT OF DRUG/ALCOHOL TEST VIOLATION**

1103
1104 **Following a positive drug or alcohol test (BAC at or above 0,04) test result or test**
1105 **refusal, the employee will be immediately removed from safety-sensitive duty** ~~Any~~
1106 ~~covered employee that has a verified positive drug or alcohol test or refuses to test will~~
1107 ~~be removed from his/her safety-sensitive position, informed of educational and~~
1108 ~~rehabilitation programs available, and referred to a Substance Abuse Professional~~
1109 ~~(SAP) for assessment. No employee will be allowed to return to duty requiring the~~
1110 ~~performance of safety-sensitive job functions without the approval of the SAP.~~

1111
1112 ~~A positive drug and/or alcohol test will also result in disciplinary action as~~
1113 ~~specified herein.~~

1114
1115 ~~(1) As soon as practicable after receiving notice of a verified positive drug test~~
1116 ~~result, a confirmed alcohol test result, or a test refusal, the City of Stevens~~
1117 ~~Point's Drug and Alcohol Program Manager will contact the employee's~~
1118 ~~supervisor to have the employee cease performing any safety-sensitive~~
1119 ~~function.~~

- 1120 ~~(2) The employee shall be referred to a Substance Abuse Professional for an~~
1121 ~~assessment. The SAP will evaluate each employee to determine what~~
1122 ~~assistance, if any, the employee needs in resolving problems associated~~
1123 ~~with prohibited drug use or alcohol misuse.~~
- 1124 ~~(3) Refusal to submit to a drug/alcohol test shall be considered a positive test~~
1125 ~~result and a direct act of insubordination and may result in termination. A~~
1126 ~~test refusal includes the following circumstances.~~
- 1127 ~~(a) A covered employee who consumes alcohol within eight (8) hours~~
1128 ~~following involvement in an accident without first having submitted to~~
1129 ~~post-accident drug/alcohol tests.~~
- 1130 ~~(b) A covered employee who leaves the scene of an accident without a~~
1131 ~~legitimate explanation prior to submission to drug/alcohol tests.~~
- 1132 ~~(c) A covered employee who is suspected of providing false information in~~
1133 ~~connection with a drug test, or who is suspected of falsifying test~~
1134 ~~results through tampering, contamination, adulteration, or substitution~~
1135 ~~of a urine specimen.~~
- 1136 ~~(d) A covered employee who provides an insufficient volume of urine~~
1137 ~~specimen or breath sample without a valid medical explanation.~~
- 1138 ~~(e) A verbal or written declaration, obstructive behavior, refusal to sign the~~
1139 ~~required DOT drug and/or alcohol testing forms (ATF) including refusal~~
1140 ~~to sign the certification at Step 2 of the ATF, or physical absence~~
1141 ~~resulting in the inability to conduct the test within the specified time~~
1142 ~~frame.~~
- 1143 ~~(f) A covered employee whose urine sample has been verified by the~~
1144 ~~MRO as substitute or adulterated.~~
- 1145 ~~(g) A covered employee fails to appear for any test within a reasonable~~
1146 ~~time, as determined by the employer, after being directed to do so by~~
1147 ~~the employer~~
- 1148 ~~(h) A covered employee fails to remain at the testing site until the testing~~
1149 ~~process is complete;~~
- 1150 ~~(i) A covered employee fails to provide a urine specimen for any drug test~~
1151 ~~required by Part 40 or DOT agency regulations;~~
- 1152 ~~(j) A covered employee fails to permit the observation or monitoring of a~~
1153 ~~specimen collection~~
- 1154 ~~(k) A covered employee fails or declines to take a second test the~~
1155 ~~employer or collector has directed you to take;~~
- 1156 ~~(l) A covered employee fails to undergo a medical examination or~~
1157 ~~evaluation, as directed by the MRO as part of the verification process,~~
1158 ~~or as directed by the DER as part of the "shy bladder" procedures~~
- 1159 ~~(m) A covered employee fails to cooperate with any part of the testing~~
1160 ~~process (e.g., refuse to empty pockets when so directed by the~~
1161 ~~collector, behave in a confrontational way that disrupts the collection~~
1162 ~~process).~~
- 1163

- 1164 (4) ~~For the first instance of a verified positive test from a sample submitted as the~~
1165 ~~result of a random, or reasonable suspicion drug/alcohol test (≥ 0.04 BAC),~~
1166 ~~disciplinary action against the employee shall include:~~
- 1167 (a) ~~Mandatory referral to Substance Abuse Professional for assessment,~~
1168 ~~formulation of a treatment plan and execution of a return to work agreement.~~
 - 1169 (b) ~~Failure to execute, or remain compliant with the return to work agreement~~
1170 ~~shall be subject to discipline up to and including discharge.~~
1171 ~~—Compliance with the return to work agreement means that the employee~~
1172 ~~has submitted to a drug/alcohol test immediately prior to returning to work; the~~
1173 ~~result of that test is negative; in the judgment of the SAP the employee is~~
1174 ~~cooperating with his/her SAP recommended treatment program; and, the~~
1175 ~~employee has agreed to periodic, unannounced follow-up testing as defined~~
1176 ~~in Section P of this policy.~~
 - 1177 (c) ~~Refusal to submit to a periodic unannounced follow-up drug/alcohol test~~
1178 ~~—shall be considered a direct act of insubordination and shall result in~~
1179 ~~—termination.~~
 - 1180 (d) ~~A periodic unannounced follow up drug/alcohol test which results in a~~
1181 ~~—verified positive shall result in termination from employment.~~
- 1182
- 1183 (5) ~~A verified positive post-accident drug and/or alcohol (≥ 0.04) test shall~~
1184 ~~result in discipline up to and including discharge.~~
 - 1185 (6) ~~An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of~~
1186 ~~the employee from duty for eight hours or the remainder of the workday~~
1187 ~~whichever is longer. The employee will not be allowed to return to safety-~~
1188 ~~sensitive duty for his/her next shift until he/she submits to an alcohol test~~
1189 ~~with a result of less than 0.02 BAC.~~

1190 An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the
1191 employee from duty for eight hours or the remainder of the work day whichever is
1192 longer. The employee will not be allowed to return to safety-sensitive duty for
1193 his/her next shift until he/she submits to an alcohol test with a result of less than
1194 0.02 BAC. **If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two**
1195 **or more times within a six month period, the employee will be removed**
1196 **from duty and referred to a Substance Abuse Counselor/Employee**
1197 **Assistance Program (EAP) for assessment and treatment.**

1198
1199 The cost of any treatment or rehabilitation services will be paid directly by the
1200 employee or their insurance provider.

1201
1202 **Failure of an employee to report within five days to a criminal drug statute**
1203 **conviction for a violation occurring in the workplace shall result in**
1204 **termination.** ~~The employee will be permitted to take accrued sick leave or~~
1205 ~~administrative leave to participate in the SAP prescribed treatment program. City Policy~~
1206 ~~will be followed when determining the type of leave and length of leave that may or may~~
1207 ~~not be allocated.~~

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Drug Test Refusals

An employee is considered to have refused to take a drug test if the employee:

- (a) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called by a Third Party Administrator (TPA).**
- (b) Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;**
- (c) Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test.**
- (d) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;**
- (e) Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was not adequate medical explanation for the failure;**
- (f) Fails or declines to take an additional drug test as directed by Stevens Point Transit;**
- (g) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Designated Employee Representative (DER). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;**
- (h) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);**
- (i) For an observed collection, fails to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;**
- (j) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;**
- (k) Admits to the collector or MRO that the specimen was adulterated or**

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- substituted;
- (l) The MRO verifies a test result as adulterated or substituted.

Alcohol Test Refusals

An employee is considered to have refused to take an alcohol test if the employee:

- (a) Fails to appear for any test (except a pre-employment test) within a reasonable amount of time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee to appear for a test when called by the Third Party Administrator (TPA).
- (b) Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see state statute 40.243(a)) for a pre-employment test is not deemed to have refused to test;
- (c) Fails to provide an adequate amount of saliva or breath for any alcohol test required by this part or DOT regulations. Provided, that an employee who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process for a pre-employment test is not deemed to have refused to test.
- (d) Fails to provide a sufficient breath specimen, and the physician has determined through a required medical evaluation, that there was not adequate medical explanation for the failure;
- (e) Fails to undergo a medical examination or evaluation, as directed by Stevens Point Transit as part of the insufficient breath procedures.
- (f) Fails to sign the certification at Step 2 of the ATF (Alcohol Testing Form);
- (g) Fails to cooperate with any part of the testing process.

K. VOLUNTARY SELF-REFERRAL

Any employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her to himself to the Stevens Point Transit Manager, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

1299 **Any safety-sensitive employee who admits to a drug and/or alcohol problem will**
1300 **immediately be removed for his/her safety-sensitive function and will not be**
1301 **allowed to perform such function until successful completion of a prescribed**
1302 **rehabilitation program.**

1303
1304 **A voluntary referral does not shield an employee from disciplinary action or**
1305 **guarantee continued employment with Stevens Point Transit.**

1306
1307 ~~In the instance of self-referral or a management referral, disciplinary action~~
1308 ~~against the employee shall include:~~

- 1309
1310 (a) ~~Mandatory referral to a Substance Abuse Professional for assessment,~~
1311 ~~—formulation of a treatment plan, and execution of a return to work~~
1312 ~~—agreement;~~
1313 (b) ~~Failure to execute, or remain compliant with the return to work agreement~~
1314 (c) ~~shall result in termination from employment;~~
1315 ~~—Compliance with the return to work agreement means that the employee~~
1316 ~~—has submitted to a drug/alcohol test immediately prior to returning to work;~~
1317 ~~—the result of that test is negative; in the judgment of SAP the employee is~~
1318 ~~—cooperating with his/her SAP recommended treatment program; and, the~~
1319 ~~—employee has agreed to periodic unannounced follow-up testing as~~
1320 ~~—defined in Section P of this policy;~~
1321 (d) ~~Refusal to submit to periodic unannounced follow up drug/alcohol test~~
1322 (e) ~~shall be considered a direct act of insubordination and shall result in~~
1323 ~~—termination.~~
1324 (f) ~~A self-referral or management referral to the SAP that was not precipitated~~
1325 ~~—by a positive test result does not constitute a violation of the Federal~~
1326 ~~—regulations and will not be considered as a positive test result in relation to~~
1327 ~~—the progressive discipline defined in Section Q 4-5 of this policy.~~
1328 (g) ~~Periodic unannounced follow up drug/alcohol test conducted as a result of~~
1329 ~~—a self-referral or management referral which results in a verified positive~~
1330 ~~—shall be considered a positive test result in relation to the progressive~~
1331 ~~—discipline defined in Section Q. 4-5 of this policy.~~
1332 (h) ~~A Voluntary Referral does not shield an employee from disciplinary action~~
1333 ~~—or guarantee employment with City of Stevens Point.~~
1334 (i) ~~A Voluntary Referral does not shield an employee from the requirement to~~
1335 ~~—comply with drug and alcohol testing. A Voluntary Referral does not shield~~
1336 ~~—an employee from disciplinary action or guarantee employment with~~
1337 ~~—Stevens Point Transit.~~
1338 (9) ~~Failure of an employee to report within five days a criminal drug statute~~
1339 ~~conviction for a violation occurring in the workplace shall result in~~
1340 ~~termination.~~

1341
1342 L. GRIEVANCE AND APPEAL

1344 The consequences specified by 49 CFR Part 655 **40.149(c), as amended** for a
1345 positive test or test refusal are not subject to arbitration.

1346
1347 **M. PROPER APPLICATION OF THE POLICY**

1348
1349 The City of Stevens Point is dedicated to assuring fair and equitable application
1350 of this substance abuse policy. Therefore, supervisors/managers are required to use
1351 and apply all aspects of this policy in an unbiased and impartial manner. Any
1352 supervisor/manager who knowingly disregards the requirements of this policy, or who is
1353 found to deliberately misuse the policy in regard to subordinates, shall be subject to
1354 disciplinary action, up to and including termination.

1355
1356 **N. INFORMATION DISCLOSURE RECORDS MANAGEMENT**

1357
1358 **According to 49 CFR Part 655, as amended, the following minimum record**
1359 **retention schedule shall be maintained, as a minimum by the City of Stevens**
1360 **Point DER. Sometimes, additional records will be kept to complete a paper trail**
1361 **and thoroughly document the decision-making process.**

1362
1363 ***Record Retention Schedule***

1364	Record	Retention
1365		
1366		
1367	Alcohol Test Results <0.02	1 year
1368	Records of Negative Test Results	
1369		
1370	Education and Training Records	2 years
1371		
1372	Information obtained through previous employer	3 years
1373	record checks	
1374		
1375	Records of covered employee verified positive	5 Years
1376	Drug test results	
1377		
1378	Alcohol test results with readings of 0.02 or greater	
1379		
1380	Documentation of refusal to take required drug or	
1381	Alcohol test	
1382		
1383	Evidential breath device calibration documentation	
1384		
1385	Employee evaluation and referrals	
1386		
1387	Annual MIS reports	
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Type of Records

The following specific records will be maintained:

- 1. Records related to general policies and procedures**
 - a. Current policy statement listing effective date and the approval by the highest ranking official of the City of Stevens Point.**
 - b. Employee and new hire policy receipt acknowledgements.**
 - c. Previous policy statements listing effective dates and the corresponding approvals by the highest ranking official; employee and new hire policy receipt acknowledgements.**
- 2. Records related to employee training**
 - a. Training materials on drug use awareness and alcohol misuse, including a copy of the City of Stevens Point’s policy on prohibited drug use and alcohol misuse.**
 - b. Names of covered employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training.**
 - c. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.**
 - d. Certification that any training conducted complies with the requirements for such training.**
- 3. Records related to the collection process**
 - a. Collection logbooks, if used.**
 - b. Documents relating to the random selection process.**
 - c. Documents generated in connection with decisions:**
 - i. To administer reasonable suspicion drug or alcohol tests.**
 - ii. On post-accident drug and alcohol testing.**
 - d. MRO documents verifying existence of medical explanation of the inability of a covered employee to provide and adequate urine or breath sample.**
- 4.**
 - a. Stevens Point’s copy of the custody and control form.**
 - b. Documents related to the refusal of any covered employee to submit to a required test.**
 - c. Documents presented by a covered employee to dispute the result of a test.**
- 5. Records related to referral and return to duty and follow-up testing**
 - a. Records concerning a covered employee’s entry into and completion of the treatment program recommended by the substance abuse professional**
- 6. Record(s) related to the employers MIS annual testing data**

- 1436 7. **Records related to credentials documenting that each service agent**
1437 **(i.e. MRO, SAP, Certified Labs, etc.) meets the minimum basic**
1438 **knowledge, qualifications, training, certification/examination, error-**
1439 **correction training, and refresher training.**
1440 a. **If the service agents maintain these records, the employer**
1441 **should perform and keep documents of periodic spot checks**
1442 **to ensure that the minimum requirements are met.**
1443

1444 ***Location of Records***

1445 Drug/alcohol testing records shall be maintained by the City of Stevens Point's Drug
1446 and Alcohol Program Manager **in a locked and secure manner so that disclosure of**
1447 **information to unauthorized persons does not occur.**
1448

1449 ***Information Disclosure***

1450 **Records will be released to the entities/individuals listed below in the following**
1451 **circumstances:** ~~and, except as provided below or by law, the results of any~~
1452 ~~drug/alcohol test shall not be disclosed without express written consent of the tested~~
1453 ~~employee.~~

- 1454 1. **The Stevens Point Transit Drug and Alcohol Program Manager and**
1455 **other transit system management personnel for records of a verified**
1456 **positive drug/alcohol test.**
1457 2. **A third party only as directed by specific, written instruction of the**
1458 **employee.**
1459 (1) The employee, upon written request, is entitled to obtain copies of any
1460 records pertaining to their use of prohibited drugs or misuse of alcohol
1461 including any drug or alcohol testing records. Covered employees have
1462 the right to gain access to any pertinent records such as equipment
1463 calibration records, and records of laboratory certifications. **Employees**
1464 **may not have access to SAP follow-up testing plans.**
1465 (2) ~~Records of a verified positive drug/alcohol test result shall be released to~~
1466 ~~the City of Stevens Point's Drug and Alcohol Program Manager,~~
1467 ~~Department Supervisor and Personnel Manager on a need to know basis.~~
1468 (3) ~~Records will be released to a subsequent employer only upon receipt of a~~
1469 ~~written request from the employee.~~
1470 (4) ~~Records of an employee's drug/alcohol tests shall be released to the~~ **The**
1471 ~~adjudicator in a grievance, lawsuit, or other proceeding initiated by or on~~
1472 ~~behalf of the tested individual arising from the results of the drug/alcohol~~
1473 ~~test. **The records will be released to the decision maker in the**~~
1474 ~~**proceeding.**~~
1475 (5) ~~Records will be released to the~~ **The National Transportation Safety Board**
1476 ~~during an accident investigation.~~
1477 (6) ~~Records will be released to the DOT or any DOT~~ **An agency with**
1478 ~~regulatory authority (such as over Stevens Point Transit over the~~
1479 ~~employer or any of its employees).~~

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- (7) ~~Records will be released if requested by a~~ **A** Federal, state or local safety agency with regulatory authority over ~~the~~ City of Stevens Point **Transit** or the employee.
- ~~(8) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 necessary legal steps to contest the issuance of the order will be taken~~
- (8) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.**
- (9) To the decision maker in a criminal or civil action proceeding resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues and order to Stevens Point Transit to release the information. Stevens Point Transit will release the information which a binding stipulation that it will only be released to the parties of the proceeding.**

If a party seeks a court order to release the specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.

1502

1503 **This Policy was adopted by the City of Stevens Point on August 19, 2013.**

1504

1505 **Mayor of the City of Stevens Point**

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1512 **City Clerk of the City of Stevens Point**

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ATTACHMENT A
SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Drug and Alcohol Program Manager:

Name: Lisa Jakusz
Title: Human Resource Manager / **Drug and Alcohol Program Manager**
Address: 1515 Strongs Avenue, Stevens Point WI 54481
Telephone Number: 715 346-1594

Alternate/Back Up
Kelley Pazdernik
Assistant to the Mayor
1515 Strongs Avenue, Stevens Point, WI 54481
715 346-1570

Medical Review Officer

Name: Dr. Benjamin Gerson
Title: ~~Doctor – University Services~~ **MRO**
Address: 10551 Decatur Road, Suite 200
Philadelphia, PA 19154
Telephone Number: ~~800-877-7484~~ **215-637-6800**

Substance Abuse Professional

Name: Harry Deets, MSW, LCSW
Title: EAP Director/Counselor ~ ERC, Inc.
Address: 3525 Stewart Avenue, Wausau WI 54401
Telephone Number: 715 845-9400

Or select one from www.saplist.com - Wisconsin

DHHS Certified Laboratory Primary Specimen

Name: Quest Diagnostics
Address: 10101 Renner Blvd, Lenexa KS 66219
Telephone Number: 800 877-7484

DHHS Certified Laboratory Split Specimen

Name: Lab Corp
Telephone Number: ~~800 733-3984~~ **800 833-3984**

Attachment B
List of Safety Sensitive Positions
For Stevens Point Transit

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1563		
1564		
1565	Title	Testing Authority
1566	Bus Operators	FTA
1567	Mechanics	FTA
1568	Dispatch/Supervisors	FTA
1569		
1570		

1571 **Attachment C**
1572 **Alcohol Fact Sheet**

1573
1574 Alcohol is a socially acceptable drug that has been consumed throughout the world for
1575 centuries. It is considered a recreational beverage when consumed in moderation for
1576 enjoyment and relaxation during social gatherings. However, when consumed primarily
1577 for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it
1578 slows down physical responses and progressively impairs mental functions.

1579
1580 **Signs and Symptoms of Use**

- 1581
1582 Dulled mental processes
1583 Lack of coordination
1584 Odor of alcohol on breath
1585 Possible constricted pupils
1586 Sleepy or stuporous condition
1587 Slowed reaction rate
1588 Slurred speech

1589
1590 (Note: Except for the odor, these are general signs and symptoms of any depressant
1591 substance.)

1592
1593 **Health Effects**

1594
1595 The chronic consumption of alcohol (average of three servings per day of beer
1596 [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in
1597 the following health hazards:

- 1598
1599 Decreased sexual functioning
1600 Dependency (up to 10 percent of all people who drink alcohol become
1601 physically and/or mentally dependent on alcohol and can be termed
1602 "alcoholic")
1603 Fatal liver diseases
1604 Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast,
1605 and malignant melanoma
1606 Kidney disease
1607 Pancreatitis
1608 Spontaneous abortion and neonatal mortality
1609 Ulcers
1610 Birth defects (up to 54 percent of all birth defects are alcohol related).

1611
1612 **Social Issues**

- 1613
1614 Two-thirds of all homicides are committed by people who drink prior to the
1615 crime.

- 1616 Two to three percent of the driving population is legally drunk at any one time.
1617 This rate is doubled at night and on weekends.
1618 Two-thirds of all Americans will be involved in an alcohol-related vehicle
1619 accident during their lifetimes.
1620 The rate of separation and divorce in families with alcohol dependency
1621 problems is seven times the average.
1622 Forty percent of family court cases are alcohol problem related.
1623 Alcoholics are 15 times more likely to commit suicide than are other segments
1624 of the population.
1625 More than 60 percent of burns, 40 percent of falls, 69 percent of boating
1626 accidents, and 76 percent of private aircraft accidents are alcohol related.
1627

1628 The Annual Toll

- 1629
1630 24,000 people will die on the highway due to the legally impaired driver.
1631 12,000 more will die on the highway due to the alcohol-affected driver.
1632 15,800 will die in non-highway accidents.
1633 30,000 will die due to alcohol-caused liver disease.
1634 10,000 will die due to alcohol-induced brain disease or suicide.
1635 Up to another 125,000 will die due to alcohol-related conditions or accidents.
1636

1637 Workplace Issues

- 1638
1639 It takes one hour for the average person (150 pounds) to process one serving
1640 of an alcoholic beverage from the body.
1641 Impairment in coordination and judgement can be objectively measured with
1642 as little as two drinks in the body.
1643 A person who is legally intoxicated is 6 times more likely to have an accident
1644 than a sober person.
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Attachment D
Minimum Thresholds

~~INITIAL TEST CUTOFF
LEVELS
(ng/ml)~~

Marijuana metabolites	50
Cocaine metabolites	150
Opiate metabolites	2,000
Phencyclidine	25
Amphetamines:	
 Amphetamines	500
 Methamphetamine	500

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1654
1655

~~CONFIRMATORY TEST
CUT/OFF LEVELS
(ng/ml)~~

Marijuana metabolites	15
Cocaine metabolites	100
Opiates:	
 Morphine	2,000
 Codeine	2,000
Phencyclidine	25
Amphetamines:	
 Amphetamines	250
 Methamphetamine	250

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~~Delta-9-tetrahydrocannabinol-9-carboxylic acid.~~
~~Benzoyllecgonine~~
~~Specimen must also contain amphetamine at a concentration greater than or equal to 100 ng/ml.~~

1662 **Attachment D – Resources**

1663 **NOTE:** Always consult FTA’s website for the most current version.

1664

1665 **USDOT Office of Drug and Alcohol Policy and Compliance**

1666 **USDOT Office of Drug and Alcohol Policy and Compliance (ODAC)**

1667 <http://www.dot.gov/ost/dapc/>

1668

1669 **What Employers need to Know About DOT Drug and Alcohol Testing – Guidance**
1670 **and Best Practices –**

1671 <http://www.dot.gov/ost/dapc/documents/EmployerGuidelinesOctober012010.pdf>

1672

1673 **What Employees Need to Know About DOT Drug and Alcohol Testing-**

1674 <http://www.dot.gov/ost/dapc/documents/EmployeeHandbookOctober2010.pdf>

1675

1676 **ODAC – Email Notification Updates**

1677 http://www.dot.gov/ost/dapc/email_list.html

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1680 **FTA**

1681 **Federal Transit Administration**

1682 <http://www.fta.dot.gov/>

1683

1684 **FTA – Legislation and Regulations**

1685 <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Newsletters/Topics.aspx>

1686

1687 **MIS – Drug and Alcohol Reporting**

1688 <http://transit-safety.fta.dot.gov/DrugAndAlcohol/DAMIS/default.aspx>

1689

1690 **Best Practices Manual: FTA Drug and Alcohol Testing Program**

1691 <http://transit-safety.volpe.dot.gov/Publications/order/singledoc.asp?docid=704>

1692

1693 **Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit**

1694 <http://transit-safety.fta.dot.gov/Publications/order/singledoc.asp?docid=61>

1695

1696 **Prescription and Over-the-Counter Medications Toolkit**

1697 [http://transit-](http://transit-safety.fta.dot.gov/publications/substance/RxOTC/RxOTC_Sept2011.pdf)
1698 [safety.fta.dot.gov/publications/substance/RxOTC/RxOTC_Sept2011.pdf](http://transit-safety.fta.dot.gov/publications/substance/RxOTC/RxOTC_Sept2011.pdf)

1699

1700 **Training Information**

1701 **FTA Training**

1702 <http://transit-safety.fta.dot.gov/DrugAndAlcohol/Training/Default.aspx>

1703

1704 **RTAP Scholarship Program**

1705 <http://www.dot.wisconsin.gov/localgov/transit/rtap.htm>

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Employee Acknowledgement Form

~~Detach and return this page to the Personnel Department after you have received training on the City of Stevens Point's Drug and Alcohol Testing Policy and have received a copy of the Policy.~~

~~I acknowledge that I have received training and a copy of the City of Stevens Point's Drug and Alcohol Testing Policy on the date indicated below:~~

~~Signed: _____~~

~~Date: _____~~

Attachment E – Employee Certified Receipt

Employee Name: _____

Employee Signature: _____ **Date:** _____

Supervisor: _____ **Date:** _____

This is to certify that I have been provided educational materials that explain the requirements of 49 CFR Part 655, as amended and 49 CFR, Part 40, as amended and my employer's policies and procedures with respect to meeting the requirements. The materials include detailed information of the following checked (x) items:

- 1. The designated person(s) to answer questions about the materials.
- 2. Sufficient information about the safety-sensitive functions and periods of the workday that compliance is required.
- 3. Specific information concerning prohibited conduct.
- 4. Circumstance under which a safety-sensitive person will be tested.
- 5. Test procedures, integrity of the testing process, and safeguarding the validity of the test.
- 6. An explanation of what will be considered a refusal to submit to a test and the consequences.
- 7. Information on the affect of alcohol and controlled substance use on:
 - An individual's health
 - Signs and symptoms of a problem
 - Work
 - Personal Life
 - Available methods of intervening when a problem is suspected
- 8. A copy of Stevens Point Transit's Drug and Alcohol policy
- 9. Training Materials
- 10. Optional Information: _____