



## RESOLUTION NO. 23-03-11

### EXHIBIT A

*Adopted Date:  
March 22, 2023*

## TRIMET ANTI-DRUG AND ALCOHOL MISUSE POLICY

### A. INTRODUCTION

TriMet (hereinafter “District”) has the responsibility to its customers and the general public to provide safe, efficient transportation services while insuring safe working conditions for its employees. To satisfy these responsibilities, the District must establish a work environment where its employees are free from the effects of drugs or alcohol.

### B. APPLICABILITY

This Anti-Drug and Alcohol Misuse Policy (Policy)\* applies to all District employees and certain contracted employees and will be distributed accordingly. TriMet employees who are working at WES are subject to this Policy to the extent the WES FRA D&A Policy is silent on an issue.

### C. PURPOSE

The purpose of this Policy is to assure employee fitness for duty and to protect District employees, customers, and the public from risk posed by worker use of drugs or alcohol. This Policy is intended to comply with all applicable Federal regulations governing workplace drug use and alcohol misuse in the transit industry, as well as the Drug Free Workplace Act of 1988. Regulations issued by the U.S. Department of Transportation (DOT) and the Federal Transit Administration (FTA) mandate urine drug testing and evidential breath alcohol testing for safety-sensitive positions. This Policy sets forth the District drug and alcohol abuse program and the testing and reporting guidelines for both safety-sensitive employees as required by those regulations, and for employees in non-safety sensitive positions, as promulgated under the District’s authority.

It is the goal of this Policy to prevent substance abuse and rehabilitate rather than terminate the employment of workers. However, all persons covered by this Policy should be aware that the first violation of this Policy will result in discipline *pursuant to Section M of this policy*, or in not being hired. A second violation of this Policy at any time and under any circumstance will result in termination of employment.

Compliance with DOT/FTA drug and alcohol regulations and District policy is a Condition of Employment.

**D. PROHIBITED SUBSTANCES**

The FTA Regulations prohibit the consumption of the following drugs and drug metabolites at any time: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine. In addition to the aforementioned drugs, it is the District's policy to prohibit use of any illegal controlled substance by all District employees, as well as any drug not approved for medical use by the USDA or USFDA. Illegal use includes use of, or impairment by, any illegal drug, misuse of legally prescribed or over-the-counter drugs, illegally obtained prescription drugs, or use of any substance or product intended to defraud USDOT urine screens.

With respect to safety-sensitive employees, the FTA prohibits the consumption of any alcoholic substance, beverage, or mixture, including any medication containing alcohol within four (4) hours of the employee's scheduled time to report for work, while on duty or within eight (8) hours following an accident or until the employee takes a post-accident alcohol and/or drug test, whichever occurs first.

Medical marijuana is the use of marijuana to treat a bona fide medical condition, supported in writing with a medical certification by a licensed medical doctor. Employees who possess an identification card issued by the Oregon Department of Health for the use of marijuana for medical purposes are not exempt from the District's drug policy. It is important to know that federal laws supersede state laws, and marijuana remains an illegal substance (Class I controlled substance), and is not considered to have an accepted medical use in the United States. Furthermore, employees covered by federal or Oregon Department of Transportation drug and alcohol regulations are still prohibited from using marijuana for any purpose.

The District will not accept the use of medical marijuana as a legitimate explanation for a positive drug test. The District's Medical Review Officer (MRO) will automatically verify such test result as a positive test. The law does not allow the public use of medical marijuana and it will not be allowed at the District for any reason. This provision applies to both safety and non-safety-sensitive employees.

**E. PROHIBITED BEHAVIOR**

The use, possession, distribution, sale, purchase, manufacture, dispensation of or intoxication by alcoholic substances or beverages, intoxicants, illegal drugs, controlled substances not medically authorized, related drug paraphernalia, any substance or product intended to defraud USDOT urine screens, or other substances, including prescription drugs, which impair job performance or mental or motor function by any employee or any other person to whom this Policy applies while on District premises or in the course of conducting District

business during regular business hours, including while subject to being on-call in a paid status, at lunch or on breaks, is strictly prohibited.

Both safety-sensitive and non-safety-sensitive employees are prohibited from the consumption of illegal drugs at all times.

FTA Rule Section 655.4 defines a "covered employee" as "a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to this part."

Employees performing safety-sensitive job functions are prohibited from reporting to or remaining on duty with an alcohol concentration level of 0.04 or greater. Safety-sensitive employees may not use alcohol from any source while on duty or within four (4) hours prior to performing safety-sensitive duty.

Safety-sensitive employees on call are prohibited from using alcohol during hours they are on on-call paid status. Any time an employee (not on paid status) is called to report for duty, and the employee has used alcohol within 4 hours of the call, the employee must turn down the work or acknowledge the use of alcohol and the inability to perform the safety-sensitive function.

Employees who fail to produce a negative drug and or alcohol test will be subject to disciplinary action. This does not include tests ruled as cancelled per the MRO.

## F. ALCOHOL

### 1. Adverse Effects

It is recognized that alcohol is a legal, socially acceptable drug when consumed in moderation. However, when consumed primarily for its physical and mood-altering effects, it is a substance that is subject to abuse. As a depressant, it slows physical responses and progressively impairs mental functions, including the ability to safely operate a motorized vehicle or machinery. The chronic consumption of alcohol over time may result in critical health issues, including dependency, fatal liver diseases, ulcers, and increased possibility of cancers. Slurred speech, poor coordination, inability to walk straight, rapid eye movement, impaired attention or memory, stupor or coma are all signs of alcohol use and problems.

If an alcohol problem is suspected, the Employee Assistance Program or Drug and Alcohol Program Administrator should be contacted.

### 2. Use

The FTA requires that no safety-sensitive employee shall report for duty within four (4) hours of using any alcoholic substances or beverages, including medications, or use alcohol while subject to being on-call in a paid status. An employee who has a confirmed alcohol concentration of 0.02-0.39, but less than 0.04, on an evidentiary breathe testing device, will result in removal from his/her position for eight (8) hours or until the employee tests below a concentration level of less than 0.02, whichever is

sooner the employee will be placed in a non-pay status for the period of non-availability.

Each employer shall prohibit a covered employee, while having an alcohol concentration of 0.04 or greater, from performing or continuing to perform a safety-sensitive function per the FTA regulations. An alcohol concentration of 0.04 or greater is a DOT Positive test result, and will result in disciplinary action pursuant to section M of this policy. An employee subject to Follow up testing will be tested for drugs and alcohol, and any concentration will be considered a violation of the TriMet Drug and Alcohol Policy.

For all alcohol test types, including follow-up tests, only confirmed results of 0.04 or greater are violations. Thus, only results of 0.04 or greater may be termed positive. Any concentration of alcohol under a follow up testing plan will be considered a violation.

#### **G. SAFETY-SENSITIVE FUNCTIONS**

The District is a recipient of federal funds. Thus, in addition to the District's drug and alcohol testing program, employees who perform safety-sensitive functions, including contractors performing safety-sensitive functions on behalf of the District on or off District property, are required to participate in the federally mandated drug and alcohol testing program. The District is responsible for identifying those contractors who perform DOT-defined safety-sensitive functions on behalf of the District, on or off District property, and ensuring that these contractors have a DOT-compliant drug and alcohol testing program in place prior to performing safety-sensitive services for the District. If the safety-sensitive contractor does not have a DOT-compliant drug and alcohol program in place, that contractor will be given a reasonable amount of time in which to put a DOT-compliant drug and alcohol program in place.

A safety-sensitive function, as defined by the FTA, is any duty related to the safe operation of public transportation, including the:

1. Operation of revenue service vehicles, in or out of service,
2. Operation of non-revenue service vehicles that require drivers to hold a Commercial Driving License (CDL),
3. Controlling the dispatch or movement of revenue service vehicles,
4. Maintenance of revenue service vehicles or equipment used in revenue service, including parts repair, rebuilding and overhaul, and
5. Carrying of a firearm for security purposes.

A safety-sensitive employee is considered to be performing a safety-sensitive function when the employee is actually performing, ready to perform, or immediately available to perform such functions.

The District has reviewed the actual duties performed by employees to determine which functions and positions are safety-sensitive. A list of safety-sensitive positions is attached (Attachment A). The list will be updated as necessary.

## **H. PRESCRIPTION AND OVER-THE-COUNTER DRUG USE**

The appropriate use of legally prescribed drugs and non-prescription over-the-counter medication is not prohibited. However, it is the policy of the District that each safety-sensitive employee must, prior to performing safety-sensitive duties, submit a form reporting the use of medically authorized drugs that may impair job performance or mental function to either the employee's immediate supervisor or by emailing the completed form directly to TriMet's occupational health doctor.

Please refer to the District's Prescription and Over-the-Counter Drug Use Policy.

An employee may also be required to submit documentation for legally prescribed drugs and non-prescription over-the-counter medication to the MRO. Note: prescription drug and over the counter medication forms on file do not substitute for requested documents by MRO. These are two unrelated processes. This is a requirement per TriMet, not the FTA.

## **I. COMPLIANCE WITH TESTING**

Any employee or applicant who refuses to comply with a request for testing, who provides false information in connection with a test, who modifies or alters test forms, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution will be removed from duty immediately or barred from employment. A refusal to test will be considered insubordination.

### **Refusal:**

As an employee, you have refused to take a drug test if you:

- Admitted to the collector or the MRO that you adulterated or substituted the specimen. This behavior constitutes a refusal to take a drug or alcohol test, and constitutes a violation of the TriMet Drug and Alcohol Policy.
- Failed to provide a specimen or breath sample, or to provide a sufficient amount of urine, without a valid medical reason (confirmed by a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the Employee's failure to provide.
- Possessed or wore a prosthetic or other device that could be used to interfere with the collection process;
- Delayed arrival at a designated collection site; or failed to appear in a reasonable time as determined by the District for a drug or alcohol test (except for a pre-employment test);

- Left the collection site prior to test completion;
- Failed to permit an observed or monitored collection when required;
- For an observed collection, failed to follow the observer's instructions to raise and lower clothing and to turn around during a directly-observed test;
- Failed or declined to take additional testing when required;
- Failed to undergo a medical evaluation when required by the MRO or TriMet' DER;
- Failed to cooperate with any part of the testing process;
- Behaved in a confrontational way that disrupts the collection process;
- Once test is underway, failed to remain at site until the testing process is complete;
- Failed to sign the certification on Step 2 of the Alcohol Test Form;
- Failed to remain readily available following an accident.
- Provided a verified adulterated or substituted test result as reported by the MRO.

Refusals are violations treated equivalently to positives.

Employees who appear to be impaired, and which refuse testing, may be subject to termination of employment for the refusal due to insubordination.

In all cases of refusal, the employee will still have a mandatory referral to the substance abuse professional for evaluation and follow up protocols. All DOT drug and or alcohol violations require a SAP referral. If the employee has been terminated, then a referral to the SAP will be made.

TriMet is not responsible for any costs incurred after the employee has separated from TriMet. Refusals are equivalent to positives, at any time in your career at TriMet two positives will result in Termination.

**J. GENERAL PROVISIONS FOR DRUG AND ALCOHOL TESTING**

In order to promote and maintain a drug and alcohol-free workplace, the District will utilize a program of drug and alcohol screening. **It is the District's policy that this program applies to all employees except where noted.**

All DOT drug and alcohol testing will be in accordance with 49 CFR Part 40 (Procedures for Transportation Workplace Drug Testing Programs Sections), and part 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations). These regulations may be viewed on Tri-Net or obtained from Station Managers, Rail and Bus Maintenance Managers, and managers of rail transportation, field operations and facilities maintenance, collection personnel and the Safety Department.

**1. Types of Testing**

**a. Post-Offer/Pre-Employment (Safety-Sensitive Positions Only)**

Following a conditional offer of employment, applicants for all safety-sensitive positions will undergo urine drug testing as a condition of employment. As mandated by the FTA, applicants will be screened for the presence of marijuana, cocaine, opioids, phencyclidine (PCP), and amphetamines. In addition, under District authority, applicants will be required to provide a second urine specimen for NON-DOT testing. The second specimen will be tested, using an extended 10 panel look alike testing for the presence of the aforementioned drugs as well as barbiturates, benzodiazepines, methadone, and propoxyphene. Applicants will be notified of the testing requirement during the application process. Failure to appear, failure to remain at the site prior to commencement of test and aborting the collection before the test commences is not considered a refusal of a pre-employment test for purposes of DOT testing.

A verified negative result is required prior to performing any safety-sensitive functions and is a condition of employment.

When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in 655.62."

The employer must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer: (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the

Return-do-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee."

A verified positive test will result in the disqualification of the applicant. When an employee or applicant has previously failed or refused a drug screen, they will not be permitted to reapply for any position within the District for one year from the date of the violation.

Current District employees transferring into safety-sensitive positions will not be allowed to perform safety-sensitive duties until the employee takes a pre-employment drug test with a verified negative result.

Current District employees who have not performed a safety-sensitive function for 90 or more consecutive days, and have not been in TriMet's random selection pool during that time, are required to take a pre-employment drug test with a verified negative result prior to returning to safety-sensitive duties.

#### **b. Reasonable Suspicion**

It is the District's policy that all employees are subject to fitness-for-duty evaluation consisting of a drug and alcohol test when there is reason to suspect the employee is impaired by alcohol or drugs on duty. A referral for testing will be made when a trained supervisor can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observing the appearance, behavior, and speech or body odors of the employee.

The FTA drug testing regulations require that all supervisors must undergo a minimum of 60 minutes of training on the signs and symptoms of drug use before they are qualified to make a reasonable suspicion determination. A similar provision in the FTA alcohol testing regulation requires supervisors to undergo an additional 60 minutes of training on the signs and symptoms of alcohol misuse. Those supervisors that have not received the required training are not allowed to make drug and alcohol testing decisions until they have received the required training.

#### **The District provides and encourages refresher training for supervisory personnel.**

The FTA requires that all employees in safety-sensitive positions will be tested for on or off duty drug use when there is reasonable suspicion of such impairment or use. Reasonable suspicion testing of safety-sensitive employees must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, body odors, chronic effects or withdrawal effects, or direct observations of drug or alcohol use. A covered employee will be tested for alcohol only if these observations are made during, just preceding, or just after the covered employee performs safety-sensitive duties. A covered employee may undergo reasonable suspicion testing for alcohol only while the employee is performing safety-



sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

In accordance with District policy, employees in non-safety-sensitive positions may be subject to the same criteria as employees in safety-sensitive positions, except that employees in non-safety-sensitive positions shall only be tested for reasonable suspicion of on-duty drug or alcohol use or impairment.

Testing under District authority will be conducted as Non-DOT testing and on Non-DOT chain of custody forms. The same high standards in testing procedures will be maintained.

Upon conclusion of the specimen collection, employees will be required to make arrangements for their own transportation home. If necessary, the District will make arrangements and pay for transportation. Under no circumstance will the employee be permitted to operate a motor vehicle for the trip home.

**c. Post-Accident (Safety-Sensitive Employees Only)**

FTA defines an “accident” as an occurrence associated with the operation of a vehicle, if as a result the an individual; see below

All surviving safety-sensitive employees who have a direct or possible involvement in an accident while in the course and scope of their employment will be tested for the presence of drugs and alcohol under any of the following circumstances:

- A fatality has occurred;
- An individual suffers injury requiring immediate medical attention away from the scene;
- A vehicle incurs disabling damage as the result of the occurrence and a vehicle is transported away from the scene by a tow truck or other vehicle (in which the transit vehicle involved is a bus, electric bus, van, or automobile)or
- A rail car or trolley car is removed from revenue service. (In which the transit vehicle involved is a rail or trolley car.)<sup>1</sup>

Following an accident under the above circumstances, every attempt must be made to test the employee for the presence of drugs and alcohol within the first two (2) hours following the accident. If the alcohol test is not administered within the first two (2) hour time period, a report must be prepared and maintained on file stating the reasons for the delay. If the alcohol test is not administered within

---

<sup>1</sup> For accidents not involving a fatality, a post-accident drug test is required, unless the employee’s performance can be completely discounted as a contributing factor to the accident

8 hours, all attempts to perform the test will cease and the two-hour report will be updated to document the reason why the test could not be performed.

Under no circumstances will a drug test be administered more than thirty-two (32) hours, or an alcohol test more than eight (8) hours following an accident.

Employees involved in accidents must refrain from alcohol use for eight (8) hours following the accident or until an alcohol test is administered. Employees must remain readily available. Employees who leave the scene of an accident without authorization or cannot be located for testing following the accident will be considered to have refused the test and will be subject to discipline, *pursuant to Section M of this policy.*

Post-accident testing is stayed while the employee assists at the scene of the accident. In the event the employee is hospitalized or treated for injury, Post accident testing must be stayed for medical attention. Medical attention and or assisting with law enforcement takes president over Post Accident Testing.

The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local enforcement agency officials having independent authority for the test, shall be considered to meet FTA requirements, provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results are provided to TriMet. Such test results may be used only when TriMet is unable to perform a post-accident test within the FTA required testing period.

**d. Random (Safety-Sensitive Positions Only)**

Random testing of safety-sensitive employees will be conducted in a manner consistent with the requirements of 49 CFR Part 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations) and 49 CFR Part 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs).

The District will maintain a listing of the names of all employees in safety-sensitive positions. During the calendar year, drug and alcohol tests will be administered to these employees on a random-selection basis. The District shall ensure that random drug and alcohol tests conducted will be unannounced, immediate and that the dates for administering random tests are spread reasonably throughout the calendar month and year. Testing can be conducted on all days and hours during which safety-sensitive work is performed. A covered employee may be randomly tested for prohibited drug use anytime while on duty. All random test notifications will occur while the employee is on the clock. **In the event the random test collection extends beyond the end of the shift, the employee will be paid overtime for the additional time, in accordance with the Collective Bargaining Agreement.** There is no discretion on the part of management or operations in the selection and notification of individuals for testing.

A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

A computer based random number generator, which is a scientifically valid method, is used for random selections. All safety-sensitive employees shall have an equal chance of being selected each time selections are made.

It is the District's policy to comply with the FTA-random testing rate requirement to annually complete drug tests equivalent to at least 50% of the number of covered safety-sensitive employees. The random testing rate established by the FTA are minimum rates, TriMet must meet or exceed these under FTA authority.

**e. Return-to-Duty**

All employees who have a DOT refusal or test positive for drugs and/or alcohol on a DOT test, and who are allowed to return to work, must be evaluated for drug and alcohol use by a Substance Abuse Professional (SAP), must complete all disciplinary actions, and must test negative prior to being released for duty as outlined in 49 CFR Part 40. All Return-to-Duty drug testing will be collected under direct observation.

**It is the goal of this Policy to prevent substance abuse and rehabilitate rather than terminate the employment of workers. However, all persons covered by this Policy should be aware that violations of the Policy will result in discipline pursuant to Section M of this Policy, or in not being hired.**

**f. Follow-up**

Employees permitted to return to duty following a positive test for drugs and/or alcohol will be subject to unannounced follow-up testing as determined by the SAP. The testing will be in accordance with 49 CFR Part 40, subpart O and will be in addition to the employee's selection for testing under the random testing program. All follow up testing will be collected under direct observation. Alcohol testing if required by the SAP are only permissible just before, during, or after the performance of a safety sensitive function.

**2. Negative Dilutes**

Dilute specimen means a specimen with creatinine and specific gravity values that are lower than expected for human urine. If the test result is reported by TriMet's MRO as a negative dilute, TriMet may, but is not required to direct the employee to take another test. TriMet's policy is not to re-test in the event of a negative dilute result unless directed to conduct an observed recollection by the MRO. A negative dilute test result will not be considered a positive test.

### **3. Methodology**

Procedures for specimen collection, chain of custody of specimens, laboratory analysis procedures, and quality control requirements will be in accordance with the United States Department of Health and Human Services *Mandatory Guidelines for Federal Workplace Drug Testing Programs, Final Guidelines*, and the provisions set forth in 49 CFR Part 40, *Procedures for Transportation Workplace Drug and Alcohol Testing Programs* to assure a high degree of accuracy and reliability.

### **4. Substance Abuse Professional Evaluations**

An employee who fails or refuses a DOT drug or alcohol test will be removed immediately from the employee's safety-sensitive functions and evaluated by a District- designated SAP. The SAP will evaluate each employee to determine what assistance the employee need. The Substance Abuse Professional is responsible for making education and or treatment recommendations. The evaluation will consist of a clinical assessment, treatment recommendations, and referrals, as appropriate.

The SAP will inform the District, in writing, of the clinical-assessment-based Education and/or treatment recommendations. The employee is responsible and must comply with these recommendation. In addition, the SAP will specify the duration and frequency of follow-up drug and/or alcohol tests. The SAP's evaluations, assessment, treatment recommendations, referrals and follow- up testing recommendations will be in accordance with 49 CFR Part 40.

The District has secured the services of a Licensed Clinical Social Worker (LCSW) to perform the SAP duties. This individual has knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders. The LCSW acts as an objective public gatekeeper to help ensure that only drug and alcohol-free Tri-Met employees are allowed to work in safety-sensitive positions. Information regarding the current SAP is available from the Designated Employer Representative (DER).

### **5. Confidentiality**

Confidentiality will be maintained throughout the drug and alcohol testing process. To assure confidentiality, all test results will be sent only to a designated and qualified DER by means of a secure communication system.

The Safety Office will maintain results in a medical file separate from the official personnel file. The employee has an unqualified right, upon written request, to obtain copies of any records pertaining to the employee's drug or alcohol tests.

Test results will be released without written consent only:

- To those District personnel directly involved in the decision for the tested employee's dismissal or disciplinary action;
- To the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested;
- When an accident investigation is performed by the National Transportation Safety Board; or
- When records are requested by the DOT or any DOT agency with regulatory authority, including the state rail fixed guideway systems oversight agency.

The District will carry out this policy in accordance with DOT/FTA regulations. Records will be made available to a subsequent employer upon receipt of a written request from the employee. As directed by the specific, written consent of the employee, information regarding the employee's record will be released to an identified person.

With respect to documents pertaining to a positive test result, such as a suspension letter, return-to-work letter, or termination letter, the document will only be sent to the employee, the employee's supervisor, Human Resources, and the Drug and Alcohol Program Testing Manager (DAPM), unless the employee provides specific written consent authorizing release to another identified individual. For represented employees, a contemporaneous, generic notice of discipline will be sent to the Union pursuant to the Collective Bargaining Agreement. This notice will not contain any confidential information regarding drug test results.

## **6. Notification of Criminal or Driving While Intoxicated Conviction**

The Drug Free Workplace Act of 1988 requires all employees to notify the Drug and Alcohol Program Administrator of any conviction under a criminal drug statute for violations occurring on District property within five (5) days of conviction. Additionally, the District policy requires the employee to notify the Drug and Alcohol Program Administrator of all convictions under a criminal drug statute for violations occurring off District property and of all moving violations causing the loss of driver's license by State or local law enforcement involving drugs or alcohol. This notification must occur within five (5) days of conviction or violation. Failure to report such conviction or violation will result in disciplinary action *pursuant to Section M of this policy*. The District is a drug-free employer.

**K. EMPLOYEE ASSISTANCE PROGRAM**

The District recognizes its commitment and its responsibility to its employees by seeking to provide, through the Employee Assistance Program (EAP) an opportunity for employees to deal with drug and alcohol-related problems. Any employee who voluntarily requests assistance in dealing with a personal drug and/or alcohol problem may do so through the EAP in complete confidence and without jeopardizing his/her employment with the District solely because of the request for assistance.

Contact information for the EAP are available from the Human Resource Department and are available on TriNet. Other treatment programs for drug and alcohol problems are available through the health and welfare providers selected by individual employees. The discontinuation of any involvement with alcohol or drugs is an essential requisite for participation in any treatment program.

Although employees are encouraged to receive help for drug or alcohol problems, participation in treatment under the EAP will not excuse an employee's failure to comply with the requirements of this Policy. These provisions are included under TriMet's independent authority.

**L. EDUCATION AND TRAINING**

DOT/FTA regulations require supervisors and or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral and performance indicators of drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

It is the policy of the District that training and education programs will be made available to all District employees and Union officials.

**M. DISCIPLINE**

With respect to represented employees, any employee whose conduct is found to be in violation of this Policy will be subject to disciplinary action including suspension or termination. At a minimum:

1. The first violation of this Policy will be subject to a mandatory five (5) day suspension without pay.
2. A second violation of this Policy at any time under any circumstance will result in termination.
3. A refusal to comply with the requirements of this Policy or a Return to Work Agreement will result in termination.

Represented employees will be disciplined in accordance with the Working and Wage Agreement. All disciplinary action will be reviewable through the grievance procedures in the Working and Wage Agreement. Employment factors, including the nature of the violation, additional violations of rules, policies, procedures, which were identified during

the investigation of an incident/accident (including insubordination for refusing to test), and the employee's disciplinary history will be taken into consideration and may result in an increased level of discipline.

With respect to non-represented employees, management shall have sole discretion to determine the appropriate disciplinary action for violation of this Policy, but at a minimum, must follow the steps in Section N.

**N. RETURN-TO-WORK REQUIREMENTS**

Prior to being allowed to return to work, all employees that refuse or test positive for drugs or alcohol on a DOT test or a non-DOT test, as defined under the terms of this Policy, and who, under the discipline policy, are allowed to return to work, will be required to successfully complete the following:

1. Meet with a SAP (or an EAP counselor for non-DOT tests) for assessment.
2. Abide by the treatment recommendations made by the SAP (or an EAP counselor for non-DOT tests), including successful completion of any treatment program or substance abuse prevention class, as applicable, and monitoring by the SAP (or EAP counselor for non-DOT tests) to assure compliance with the aftercare plan.
3. Complete imposed discipline (at a minimum, a five (5) day unpaid suspension).
4. Undergo observed return-to-duty drug and alcohol tests, which are determined by the Substance Abuse Professional. A verified negative return to duty result must be obtained before the employee will be permitted to return to work.
5. Complete a Return-to-Work Agreement, in conjunction with the employee's manager, outlining the terms for returning to work. The Agreement will be based in part on the SAP's (or EAP counselor's, for non-DOT tests) terms of compliance. At a minimum, the Return-to-Work Agreement will include the following requirements:
  - a) Successful compliance with, and completion of the treatment program and/or substance abuse prevention class, as applicable;
  - b) Compliance with the after-care plan;
  - c) Participation in, and compliance with, the requirements of a follow-up testing program;

- d) A second violation of this Policy at any time under any circumstance will result in termination. For the purposes of a Return-to-Work Agreement, a violation is any confirmed alcohol concentration of 0.04 or greater, refusal to test or any confirmed positive drug test, verified by the Medical Review Office. Per the FTA a positive result is 0.04, the TriMet Policy is any concentration of alcohol under TriMet's independent authority is considered a violation.
- e) Employee signature on the Return-to-Work agreement acknowledging the acceptance and understanding of the conditions set forth within the agreement, in consideration of continued employment.

Failure to sign the Return-to-Work Agreement or failure to adhere to any of the aforementioned requirements will result in termination of the employee. This provision is under TriMet's independent authority."

**O. MODIFICATIONS**

The DER is authorized and directed to promulgate modifications, amendments, and revisions to the TriMet Drug and Alcohol Abuse Program and to enact any policies as may be necessary to ensure TriMet's compliance with laws and regulations affecting drug and alcohol matters. Each employee is required to receive a complete and updated copy of this Policy and to sign receipt of the policy acknowledging the employee's responsibility to read the Policy and ask any appropriate questions. A copy of the employee's signature acknowledging receipt of the Policy and responsibility to read and understand the Policy will be kept in the employee's personnel file and in the employee's drug and alcohol file.

**P. PROGRAM ADMINISTRATION**

The Safety Office is responsible for administering the Drug and Alcohol Policy and with certifying compliance with the FTA substance abuse program requirements. Any questions about the Policy, testing program, or the drug and alcohol misuse prevention program may be addressed to the DAPM at (503) 962-4828.

The DAPM/DER is knowledgeable about the DOT and FTA regulations, company policies and internal procedures. The DAPM/DER is accessible to collection site personnel, Breath Alcohol Technicians (BATs), and MROs, and are prepared to address drug and alcohol testing issues, make decisions, and provide direction in a timely manner. The DAPM/DER has the authority to take necessary and immediate actions (directly or through the employee's direct supervisor) to remove employees from safety-sensitive duties, send employees for re-tests, and to direct the actions of service agents.





**ATTACHMENT A - TriMet DOT/FTA-defined Safety-Sensitive-Positions**

Last updated on 12/30/2022

Position	Job/Position Codes
Streetcar Superintendent	146
Streetcar Maintenance Training Technician	182
Streetcar Operator	488
Lead Supervisor	489
Assistant Supervisor Rail	529
Power Maintainer	531
Helper	533
LRV Apprentice	534
Rail Supervisor	536
Pressure Washer	537
Rail Controller	538
Track Maintainer	540
Signals Maintainer	541
LRV Mechanic	551
Assistant Supervisor	556
Plant Maintenance Mechanic	557
Maintenance of Way Laborer	561
Assistant Supervisor MOW	564
Assistant Supervisor	566
Signal Maintainer Apprentice V	568
Traction Overhead Apprentice	569
Traction Substation Technician Apprentice	570
Apprentice Plant Maintenance Mechanic	572
LRV Apprentice Mechanic	573
Rail Operator	580
Assistant Supervisor Field Technician	590
Field Technician	591
Field Technician Apprentice	592
Lead Operations Command Center	700
Training Supervisor (Rail)	775
Traction Substation Technician	779
Assistant Supervisor	780
Training Supervisor (Bus)	832
Road Supervisor	834
Dispatcher	836
Bus Operator	880
Mini-Run Operator	881
Trainer Facilities Maintenance	915
Maintenance Trainer	918
Assistance Supervisor	930
Journeyman Mechanic	931
Maintenance Mechanic	932
Helper	933
Apprentice Mechanic	934
Spotter	936
Cleaner	940
Tireman	941/942
Service Worker (Bus)	944
Service Worker (Rail)	945
Assistant Supervisor	964
Plant Maintenance Mechanic (MOW)	968