CITY OF MERRILL

TRANSIT COMMISSION

AGENDA • MONDAY, OCTOBER 21, 2024

Regular Meeting | **City Hall Council Chambers** | **4:00 PM**

To attend remotely call

I. Call to Order

II. Public Comment

III. Approval of previous meeting minutes

1. September minutes

IV. Administrator's Report

1. Report

V. General Agenda Items for Consideration

1. Drug and Alcohol Policy
2. AV Club student rides

VI. Agenda Items for Next Meeting

VII. Date and Time of Next Meeting
November 18, 2024, at 4:00pm in City Hall Council Chambers

VIII. Adjournment

The Merrill City Hall is accessible to the physically disadvantaged. If special accommodations are needed, please contact the Merrill City Hall at (715) 536-5594.

CITY OF MERRILL
TRANSIT COMMISSION
MONDAY, SEPTEMBER 16, 2024 MINUTES
REGULAR MEETING CITY HALL COUNCIL CHAMBERS 4:00 PM

I. **Call to Order** Roll Call:
Present: Kunkel, Ziech, Doerr, Weber, Baker
Present Not Voting: Transit Administrator Brad Brummond
Excused:
Absent:

II. **Public Comment** None

III. **Approval of previous meeting minutes**

1. **Minutes -** Kunkel motioned to approve. Weber seconded and the motion Passed.

IV. **Administrator's Report**

1. **Report -** August all looks good

V. **General Agenda Items for Consideration**

1. **Tour of Lights -** Discussion to add another night and have tour guides to assist with judging
2. **Meeting Time -** Discussion to change meeting time. keep as is.
3. **Community Partners Meeting -** Sue attending as well

VI. **Agenda Items for Next Meeting** Tour of lights, report from community partners meeting

VII. **Date and Time of Next Meeting**

1. **October 21, 2024 at 4:00pm -**

VIII. **Adjournment** Kunkel motioned to adjourn. Weber seconded and the motion Passed.

Transit Administrator Report

September 2024

Ridership: 4561 rides for July

Employee Status: full status – 1 waiting for results

Extended Service Area: 0 September rides.

Community Partners meeting – looking for solutions to accessibility seemed to be mostly about hospital discharges late night and finding rides home for them. Also the shortage of Volunteer drivers for organizations. Possibility of future meetings.

Tour of lights – marketing committee was on board with having guides

- **Will do 4 buses on Wednesday and up to 3 on Thursday**

Merrill Transit System

Drug and Alcohol
Zero Tolerance Policy
for
FTA Safety Sensitive Employees

Revised on: October 21, 2024

Original Plan

Adopted on: December 19, 2011

This policy is hereby adopted and signed by[1]:

Executive Name/Title: _____

Executive Signature: _____

For questions about **Merrill Transit System's** anti-drug and alcohol misuse program, contact:

Title: HR/Drug and Alcohol Program Manager (DAPM)
Contact Name: Brad Brummond
Phone: 715-536-7112
Email: Brad.brummond@ci.merrill.wi.us

[1] This policy is known as a Return-to- Duty and/or a 2nd Chance Policy.

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1. Log of Policy Updates

Merrill Transit System will stay up to date with USDOT and Federal Transit Administration (FTA) drug and alcohol requirements and make policy changes as appropriate. Anytime substantive changes are made to this policy, it will officially be approved by **Merrill Transit System** and communicated to all employees. The date the policy was last revised and approved is listed below.

Date	Activity (Review/Update/Adoption/Distribution)	Person Responsible
10/21/2024	Updated to include current DAPM information and Merrill Transit System criteria	Brad Brummond
1/1/2018	Update Drug and Alcohol Policy – update prohibited substances list	Brad Brummond
3/21/2016	Update Drug and Alcohol Policy	Richard Grenfell
12/19/2011	Develop Drug and Alcohol Policy	Richard Grenfell

2. Purpose of Policy

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended.

Copies of Part 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the US Department of Transportation (DOT) Office of Drug and Alcohol Compliance website https://www.transportation.gov/odapc .

All covered employees (full or part time) are required to submit to drug and alcohol tests as a condition of employment in accordance with 49 CFR Part 655.

All provisions set forth in regular print are consistent with requirements set forth in 49 CFR Part 655 or Part 40, as amended. Portions of this policy are not USDOT-FTA mandated, but **Merrill Transit System** policy. These additional provisions are underlined. All tests conducted under the sole authority of **Merrill Transit System** will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

In addition, USDOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the Federal Transit Administration (FTA).

All **Merrill Transit System** employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Human Resource Manager and/or Drug and Alcohol Program Manager (DAPM) or designee no later than (5) five days after such conviction.

3. Covered Employees

This policy applies to every person including an applicant or transferee, who performs or will perform a "safety sensitive function" as defined by 49 CFR Part 655.4.

Under FTA (Part 655), covered employees perform the following safety-sensitive functions:

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul, and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

Covered Positions at **Merrill Transit System** include:

Covered Positions
The following is a list of job titles covered by this policy because they perform safety-sensitive functions.
Bus Driver
Coordinator (e.g., Dispatcher)

Volunteers are considered safety sensitive and subject to testing if they are required to hold a commercial driver's license (CDL) to operate the vehicle; or the volunteer performs any safety-sensitive function listed above and receives remuneration in excess of their actual expense.

4. Prohibited Behavior

Drugs

Use of illegal drugs is prohibited at all times.

Prohibited drugs include:

- Marijuana
- Cocaine
- Phencyclidine (PCP)
- Opioids
- Amphetamines

FTA drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy.

Alcohol

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater.

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol within (4) four hours prior to the performance of safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty**.** If the on-call employee claims the ability to perform their safety-sensitive function, they must take an alcohol test with a result of less than 0.02 prior to performance.

Merrill Transit System, under its own authority, also prohibits the consumption of alcohol during lunch periods, rest breaks, split shift breaks, or anytime the employee is on duty, or anytime the employee is in uniform.

All covered employees required to take a post-accident test are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until they've submitted to the post-accident drug and alcohol test, whichever occurs first.

5. Prescription Drug Use

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 the Human Resource Manager/Drug and Alcohol Program Manager (DAPM) or designee. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties. The employee

is required to provide a written release from their doctor or pharmacist indicating that the employee can perform their safety sensitive functions.

6. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information to at least two qualified **Substance Abuse Professional (SAP)[2].** All documents related to the **SAP** referral will be kept in the employee's drug and alcohol file.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

Treatment/Discipline

Per **Merrill Transit System** policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test, will be immediately removed from their safety sensitive position, referred to at least two qualified **Substance Abuse Professionals (SAP)**, and will be terminated.

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

A voluntary referral does not shield an employee from:

- ✓ Disciplinary action or guarantee employment with **Merrill Transit System** and
- ✓ The requirement to comply with drug and alcohol testing.

Assessment by a **SAP** or participation in a rehabilitation program does not guarantee employment and/or reinstatement with **Merrill Transit System.**

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

7. Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an applicant/employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

There are (3) three situations for conducting DOT-FTA **Pre-Employment Testing**[3]:

- Applicant/New Employee
- Current non-safety-sensitive employee transfers to a safety sensitive position
- Current employee has long-term absence from the performance of safety-sensitive function. This means the employee did not do safety sensitive duties for 90 or more consecutive calendar days **AND** was removed from the random testing pool during that time.

An applicant or covered employee who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

Pre-Employment vs. Return to Duty
It is important not to confuse **pre-employment tests** with **return to duty tests**. A **return to duty test** is only applicable to an individual that had a positive test or test refusal.

The DAPM will ensure the Human Resources Manager or designee includes specific DOT-FTA pre-employment drug testing requirements in the job application process. The applicant must complete the following information prior to testing:

- ✓ **Job Application**, including DOT-FTA drug and alcohol testing specific questions **(Employer Drug and Alcohol Questions)**
- ✓ **Applicant Acknowledgement of Pre-Employment Drug Test Form**
- ✓ **Release of Prior Employer Information Form**

Once the application materials are complete, the Human Resources Manager or designee will require applicants selected for hire in DOT-FTA regulated positions to submit to a DOT-FTA Drug and Alcohol pre-employment test.

Merrill Transit System will ensure the employee ***start date*** is documented appropriately.

[3] **Merrill Transit System** can conduct a non-DOT test where it sees fit. If non-DOT test is conducted, the non-DOT process **must** be followed.

- The employee start date must be after the date the negative drug test is verified by a **Medical Review Officer (MRO)**[4]. If the employee starts before verification of a negative drug test, the employee can only perform non-safety sensitive duties. Upon receipt of the negative results, the employee can begin safety-sensitive duties.

Reasonable Suspicion Testing

All **Merrill Transit System** safety-sensitive employees shall be subject to a drug and/or alcohol test when **Merrill Transit System** has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

The **Merrill Transit System** supervisor or trained company official will document the reasonable suspicion determination.

The **Merrill Transit System** supervisor will work with the Human Resources Manager or designee to send the employee for drug and/or alcohol testing.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing 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.

Under **Merrill Transit System's** authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

A safety-sensitive employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish their shift and shall immediately be placed on administrative leave pending disciplinary action.

[4] A **Medical Review Officer (MRO)** is a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Post-Accident Testing

The **Merrill Transit System** supervisor will document the decision for post-accident testing. The **Merrill Transit System** supervisor will work with the Human Resource Manager or designee to send the employee for drug and/or alcohol testing, as applicable.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

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

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by **Merrill Transit System** using the best information available at the time of the decision, will also be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

(1) The accident results in injuries requiring immediate medical treatment away from the scene unless the covered employee can be completely discounted as a contributing factor to the accident.
(2) One or more vehicles incurs disabling damage and must be towed away from the scene unless the covered employee can be completely discounted as a contributing factor to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by **Merrill Transit System** using the best information available at the time of the decision, will be tested.

Random Testing[5]

All covered employees will be subjected to random, unannounced, unpredictable testing. Non-safety-sensitive employees covered under **Merrill Transit System's** authority will be selected from a pool of non-USDOT covered employees.

(1) Covered employees are required to proceed immediately to the **Collection Site** upon notification to report for a random drug and/or alcohol test.

(2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year. Random testing will be conducted at all days and times of the day when safety sensitive functions are performed.

(3) The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

(4) A covered employee may 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. However, under **Merrill Transit System's** authority, a non-USDOT random alcohol test may be performed any time the covered employee is on duty.

(5) A covered employee may be randomly tested for prohibited drug use anytime while on duty.

(6) Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. On a case-by-case basis, employees who provide advance, verifiable notice of scheduled medical or child/family care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift.

Return-to-Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a **SAP**, complete a **SAP**-required program of education and/or treatment, and provide a negative return-to-duty drug and/or alcohol test result.

Any return-to-duty drug testing will be directly observed.

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[5] Testing rates will meet or exceed the minimum annual percentage rate set each year within each DOT agency. The current year testing rates can be viewed online at http://www.transportation.gov/odapc/random-testing-rates. If a given employee is subject to random testing under the rules of more than one DOT agency, the employee will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the employee's function.

All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-Up Testing

Employees returning to safety-sensitive duty following a return-to-duty test will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the **SAP**. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the **SAP**.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty.

All follow-up drug tests will be directly observed.

All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

8. Testing Procedures

All USDOT drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

Notification to Applicant/Covered Employee

The Human Resources Manager or designee will do the following:

- Give the applicant/covered employee a testing **Order Form**.
  - ✓ Require the applicant/covered employee to sign the testing **Order Form** to acknowledge receipt of written notice.
  - ✓ Instruct the applicant/covered employee to immediately proceed to the **Collection Site** upon notification of a drug and/or alcohol test.

Notification to Collection Site

The Human Resources Manager or designee will do the following:

- Notify the **Collection Site** via telephone, email, or fax to inform of:
  - ✓ Employee identifying information
  - ✓ Requirement for DOT-FTA drug and/or alcohol test
  - ✓ Provide a copy of the testing **Order Form** to the **Collection Site** via email/fax
  - ✓ Provide **Collection Site** with instructions to return testing **Order Form** and Employer Copy of the CCF to the Human Resources Manager or designee**.**

Drug Testing Procedures at Collection Site

All FTA drug testing will be conducted in accordance with 49 CFR Part 40, as amended.

The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedures, and the validity of the test result.

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

Each specimen will be accompanied by a USDOT Custody and Control Form (CCF) and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a U.S. Department of Health and Human Service (DHHS) certified laboratory.

Dilute Urine Specimen

If there is a negative dilute test result, **Merrill Transit System** will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. There is no split specimen testing for an invalid result.

Merrill Transit System guarantees that the split specimen test will be conducted in a timely fashion. The **Merrill Transit System** will seek reimbursement for the split specimen test from the employee if the result of the split specimen analysis confirms the original result.

The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

Direct Observation

As the employer, the **Merrill Transit System** must direct an immediate collection under direct observation with no advance notice to the employee, in the following circumstances consistent with 49 CFR Part 40 (as amended)[6]:

[6] 49 CFR Part 40.67, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, as amended, outlines when and how a directly observed collection is conducted.

1. The laboratory reports to the **MRO** that a specimen is invalid, and the **MRO** reports there was not an adequate medical explanation for the result.
2. The **MRO** reports the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed.
3. Anytime the collector observes materials brought to the **Collection Site** or the covered employee's conduct clearly indicates an attempt to tamper with a specimen.
4. The laboratory reports to the **MRO** that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the **MRO** reports the urine specimen as negative-dilute and requires a second collection under direct observation.
    - See 49 CFR 40.197(b)(1)
5. The original specimen appeared to have been tampered with.
    - See 49 CFR 40.65(c)(1)
6. The temperature on the original specimen was out of range.
    - See 49 CFR 40.65(b)(5)
7. The test is a return-to-duty test or follow-up test.

For urine collections that are required to be directly observed, the employee who is being observed will be required to raise their shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device. The direct observation of urine specimen collections must be conducted by a person of the same gender as the employee being tested as required by 49 CFR Part 40.67.

Alcohol Procedures at the Collection Site

All FTA alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

If the employee is also going to take a DOT alcohol test, Collectors must ensure, to the greatest extent practicable, that the alcohol test is completed before the drug testing collection process begins.

The DOT Alcohol Testing Form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign **Step 2** of the ATF at the **Collection Site** will be considered a refusal to submit to testing.

Per 49 CFR Part 40 as amended, ODAPC's[7] webpage for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" and EBTs listed on ODAPC's webpage for "Approved Evidential Breath Measurement Devices" list the approved devices that are allowed for use to conduct DOT alcohol screening tests.

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.

[7] USDOT (ODAPC) – Office of Drug and Alcohol Policy & Compliance - https://www.transportation.gov/odapc

- 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 EBT operated by a trained BAT.
    - The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test.
    - 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.
- An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered to have a positive alcohol test and in violation of this policy.
- An alcohol concentration of less than 0.02 will be considered a negative test.

The **Collection Site** should protect individual dignity, privacy, and confidentiality of the employee throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

9. Test Refusals

Covered employees that refuse to take a drug and/or alcohol **test incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions and referred to a SAP.**

Refusals to test are listed in 49 CFR Part 40 (as amended): 49 CFR 40.191 (as amended) for drug tests, and 49 CFR 40.261 (as amended) for breath tests**.**

A covered employee, has refused a test if the covered employee does the following:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by **Merrill Transit System**.

(2) Fail to remain at the testing site until the testing process is complete. An applicant and/or employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

(3) Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because they've left the testing site before the testing process commenced for a pre-employment test has not refused to test.

(4) In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of the provision of a specimen.

(5) Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.

(6) Fail or decline to take an additional test as directed by the collector or **Merrill Transit System**.

(7) Fail to undergo a medical evaluation as required by the **MRO** or **Merrill Transit System's** Human Resource Manager or designee.

(8) Fail to cooperate with any part of the testing process.

(9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.

(10) Possess or wear a prosthetic or other device used to tamper with the collection process.

(11) Admit to the adulteration or substitution of a specimen to the collector or **MRO**.

(12) Refuse to sign the certification at **Step 2** of the Alcohol Testing Form (ATF).

(13) Fail to remain readily available following an accident.

As a covered employee, if the **MRO** reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

10. Voluntary Self-Referral

Any employee who has a drug and/or alcohol use problem and has not been notified of the requirement to submit to a reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer themselves to the **Human Resource Manager/Drug and Alcohol Program Manager (DAPM) or designee,** 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.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from their safety-sensitive function and will **not** be allowed to perform such function until successful completion of a prescribed rehabilitation program.

11. Training

Merrill Transit System will ensure covered employees and supervisors receive drug and alcohol training as listed below. Training records of all covered employees will be documented.

Covered Employees

- ✓ 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.

- ✓ 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.
    - Online FTA training is available at: https://transitsafety.fta.dot.gov/DrugAndAlcohol/Tools/DrugAwarenessVideo/Default.aspx

Supervisors

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.
    - Online FTA training for supervisors is available at: https://transitsafety.fta.dot.gov/DrugAndAlcohol/Tools/ReasonableSuspicion.aspx or https://nationalrtap.org/Training/Training-Overview

12. Records Management

According to 49 CFR Parts 655 and 40, each as amended, the following minimum record retention schedule shall be maintained by **Merrill Transit System**. Additional records will be kept to thoroughly document the decision-making process.

Record Retention Schedule

Record	Retention Period (Years)
• Verified positive drug tests results • Alcohol test results 0.02 BAC or greater • Refusals to tests • Adulterations • Substitutions • Referrals to SAP • SAP reports • Follow-up tests and schedules • Documentation of employee disputes • Employee evaluation and referrals • Annual MIS reports	**5**

Record	Retention Period (Years)

• Previous DOT employer record request documentation, such as:
  ○ Records of previous positive drug and alcohol tests (0.02 BAC or above), test refusals, other violations
  ○ Employee return-to-duty documentation
  ○ Records showing good-faith-effort to obtain records from previous employers, including consent forms
	3

• Education and training records • Records related to the collection process • Random selection lists; post-accident testing; decision forms; reasonable suspicion determination forms; MRO documents • Records of the inspection, maintenance, and calibration of EBTs	**2**
• Verified negative drug test results • Employer copy of the CCF • Test results from MRO • Cancelled drug and alcohol test results • Negative alcohol tests records (below 0.02 BAC)	**1**

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 governing authority of **Merrill Transit System**.
    b. Employee and new hire policy receipt acknowledgements.
    c. Previous policy statements listing effective dates and the corresponding approvals by the highest ranking official.
2. Records related to employee training:
    a. Training materials on drug use awareness and alcohol misuse, including a copy of **Merrill Transit System'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 an adequate sample.

4. Records related to test results:
    a. **Merrill Transit System's** copy of the CCF.
    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 **SAP**.

6. Records related to the employers Management Information Systems (MIS) annual testing data.

7. Records related to credentials documenting that each service agent (i.e., **MRO**, **SAP**, Certified Labs, etc.) meets the minimum basic knowledge, qualifications training, certification/examination, error-correction training, and refresher training.

    a. If the service agents maintain these records, the employer should perform and keep documents of periodic spot checks to ensure that the minimum requirements are met.

Location of Records

Drug and alcohol testing records shall be maintained by the **Merrill Transit System** DAPM in a secure location with controlled access so that disclosure of information to unauthorized persons does not occur.

Information Disclosure

Records will be released to the entities/individuals listed below in the following circumstances:

1. The employee, upon written request, is entitled to obtain copies of any record(s) pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records.
    a. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications.
    b. Employees may not have access to **SAP** follow-up testing plans.
2. **Merrill Transit System** DAPM and other transit system management personnel for records of a verified a positive drug/alcohol test.
3. A third party only as directed by specific, written instruction of the employee.
4. A subsequent employer
    a. Only upon receipt of a written request from the employee.
5. The National Transportation Safety Board (NTSB) during an accident investigation.
6. An agency with regulatory authority over **Merrill Transit System** or any of its employees, such as the USDOT or WisDOT.

7. The adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test.
    a. The records will be released to the decision-maker in the proceeding.
8. A federal, state, or local safety agency with regulatory authority over **Merrill Transit System** or the employee.
9. In cases of a contractor or subrecipient 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.
10. 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 an order to **Merrill Transit System** to release the information.
    a. **Merrill Transit System** will release the information with a binding stipulation that it will only be released to parties of the proceeding.

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of 49 CFR Part 40 (as amended), necessary legal steps to contest the issuance of the order will be taken.

13. Contact Information

Merrill Transit System Drug and Alcohol Testing Program Contact

For questions concerning drug and alcohol testing contact:

Title:	Transit Administrator
Name:	Brad Brummond
Phone:	715-536-7112
Email:	Brad.brummond@ci.merrill.wi.us

The **Merrill Transit System** Human Resource Manager or designee maintains the following drug and alcohol contact information and credentials, and is available upon request:

- ✓ Collection Site(s)
- ✓ Third Party Administrator (TPA), if applicable
- ✓ Medical Review Officers (MRO)
- ✓ DHHS Certified Drug Testing Laboratories
- ✓ Substance Abuse Professionals (SAP)