

NOTICE OF PROPOSED GUIDANCE DOCUMENT

DTIM BTLRRH 64

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on DTIM BTLRRH 64, 49 CFR parts 655 and 40, a proposed guidance document.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website: <https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DTIMBTLRRH64>

2. Mailing written comments to:

Division of Transportation Investment Management
Wisconsin Department of Transportation
4822 Madison Yards Way
PO Box 7913
Madison, WI 53707- 7913

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at wisconsindot.gov to allow for ongoing comment.

AGENCY CONTACT

Kaleb Vander Wiele
DOTDTIMGuidanceDocs@DOT.WI.GOV



Drug and Alcohol Testing Compliance

Required Elements

Recipients of public transportation grant funding under Sections 5307, 5309, 5311 and 5339 are required to comply with Federal Transit Administration (FTA) drug and alcohol program requirements per 49 CFR parts 655 and 40, as amended¹. Recipients that contract with vendors/contractors for transportation services must provide contractor oversight of the applicable drug and alcohol requirements.

49 CFR parts 655 and 40

- Understand the federal drug and alcohol requirements:
 - [49 CFR Part 40](#) – Procedures for Transportation Workplace Drug and Alcohol Testing Programs
 - [49 CFR Part 655](#) – Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations
- Sign up to receive news and updates electronically by subscribing to USDOT.
<https://www.transportation.gov/odapc/get-odapc-email-updates>

Policy

- Adopt and implement a drug and alcohol policy that complies with 49 CFR parts 655 and 40, as amended.
- Review and update the drug and alcohol policy on a regular basis to ensure compliance with federal requirements.
- Provide a current copy of the policy to safety-sensitive employees.
- Ensure up-to-date copies of 49 CFR parts 655 and 40 are available to safety-sensitive employees (e.g. post in common areas and provide paper or link to electronic copies upon request).

Training

- Provide 60 minutes of training to safety-sensitive employees on the signs and symptoms of drug and alcohol use and consequences of prohibited drug use on personal health, safety and the work environment.
 - Online FTA training is available at: <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/DrugAwarenessVideo/Default.aspx>
- Provide reasonable-suspicion training to supervisors.
 - Online FTA training for supervisors is available at: <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/ReasonableSuspicion.aspx>
- Document employee attendance at all training sessions, including the date, time, location, training topics, time allocated for each topic and instructors name.

¹ Subrecipients that receive Section 5310 funding must comply with Federal Motor Carrier Safety Administration (FMCSA) rules for employees who hold a commercial driver's license.

Record Keeping

- Maintain drug and alcohol records consistent with 49 CFR part 40, as amended.
 - Records include but are not limited to: previous employer records, test results, test refusals, testing process administration, MIS reports and education and training records.
- Keep records in a secure location with controlled access.

Reporting

- Report the results of drug and alcohol testing activities performed under FTA authority on an annual basis, via the online Management Information System (MIS).
 - Ensure the number of tests reported in the online reporting system match the number of tests in your testing files/records.
 - Confirm there are no pre-employment alcohol tests reported in the online report (unless your agency has chosen to conduct pre-employment alcohol tests).
 - Verify and update the pre-filled employer, contact and consortium/third party administrator information in the online report.

Testing – General

- Participate in the Wisconsin drug and alcohol testing consortium.
- Verify the correct USDOT authorizing agency, FTA-Federal Transit Administration is indicated on the federal custody and control form (CCF) or alcohol testing form (ATF).
- Monitor the time that elapses between the safety-sensitive employee's notification to appear for testing and the time the test was conducted.
- Monitor the custody and control form (CCF) and alcohol testing form (ATF) for collector's errors.
 - When collector errors are discovered, attach affidavits to correct the error or place a note in the file indicating what other corrective action the employer has taken.

Pre-employment Testing

- Ask applicants and transferees if they have ever tested positive on a pre-employment drug or alcohol test that was conducted by a USDOT-regulated employer, and were not hired.
- Request the previous USDOT-regulated employer's drug and alcohol testing history for all covered employees within 30 days of the employee's start of safety-sensitive duty.
- If an employee's previous USDOT-regulated employer does not respond to the first request for the drug and alcohol testing history within 30 days of the employee's first performance of safety-sensitive duties, document the good faith efforts (second and third attempts), to obtain the information.

Reasonable Suspicion Testing

- Ensure reasonable suspicion determinations are based on observable signs and symptoms of drug or alcohol use.

Post-Accident Testing

- Use post-accident decision making forms to determine if USDOT post-accident drug and alcohol tests need to be performed.
- If the accident does not involve a fatality, and the driver can be discounted as a contributing factor to the accident, do not conduct post-accident testing. Document this on a post-accident summary form/report.
- Ensure the collection site is given the correct information regarding the correct post-accident testing authority (e.g., FTA, FMCSA or non-USDOT).
- Ensure the collection site uses non-USDOT testing forms for tests conducted under the employer's authority.

Return to Duty Testing

- Ensure collectors are observing all return-to-duty specimen collections. This should be noted in the "remarks" section of the Custody and Control Form (CCF).

Follow-Up Testing

- Ensure follow-up testing is conducted in accordance with the substance abuse follow-up testing plan.
- Ensure at least six tests are conducted within the first year (rolling 12 months) of the employee's return to duty after a positive test result or test refusal.
- Ensure any additional tests required by the follow-up plan are conducted according to the Substance Abuse Professional (SAP) instructions.
- Ensure collectors are observing all follow-up specimen collections. This should be noted in the "remarks" section of the Custody and Control Form (CCF).

Service Agent/Contractor Oversight

- Ensure all persons that perform drug and alcohol testing services comply with 49 CFR parts 655 and 40, as amended.
 - Subrecipients that contract with transit systems for transportation services must provide contractor oversight to ensure compliance with US DOT drug and alcohol requirements.
 - This includes the work of collection sites (e.g. local medical clinics, hospitals, etc.), laboratories, Medical Review Officers (MROs) and Substance Abuse Professionals (SAPs).

Need Help?

For more information, contact Becky Soderholm, WisDOT, becky.soderholm@dot.wi.gov (608) 266-1650.