Macatawa Area Express Transportation Authority

Drug and Alcohol Policy

Effective as of 11/24/2025

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1.0 Overview

MAX is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. MAX employees are the most valuable resource, and it is our goal to provide a healthy, satisfying work environment which promotes personal opportunities for growth. In meeting these goals, it is our policy to

(1) Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner;

(2) Create a workplace environment free from the adverse effects of drug and alcohol substance abuse or misuse;

(3) Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;

(4) To encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

2.0 Purpose of Policy

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has enacted 49 CFR Part 655 that mandate urine drug testing and evidential breath alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive positions when there is a positive result. The U.S. Department of Transportation (DOT) has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29 "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 FTA. This policy incorporates those requirements for employees at MAX, which became effective on January 1, 1995 and August 1, 2001. All drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended.

This policy complies with 49 CFR Part 655, as amended and 49 CFR Part 40, as amended. Copies of Parts 655 and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Federal Transit Administration (FTA) Drug and Alcohol Program website http://transit-safety.fta.dot.gov/DrugAndAlcohol/.

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

Note: Portions of this policy are not FTA-mandated, but reflect Macatawa Area Express Transportation Authority's policy. These additional provisions are identified by **bold text**.

In addition, DOT 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 FTA. All Macatawa Area Express Transportation Authority employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance 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 Operations Manager no later than five days after such conviction.

3.0 Covered Employees (Employee Categories Subject to Testing)

This policy applies to every person, including an applicant or transferee, who performs or will perform a "safety-sensitive function" as defined in Part 655, section 655.4.

You are a covered employee if you perform any of the following:

- Operate revenue service vehicles including when not in revenue service
- Operate non-revenue service vehicles that require drivers to hold a CDL
- Dispatch or control revenue service vehicles
- Maintain revenue service vehicles or equipment used in revenue service
- Provide security and carry a firearm

These categories include supervisors who may (at any time) perform these functions. Supervisors of employees in these categories who do not themselves perform these functions are excluded.

A list of safety sensitive positions at MAX is attached.

4.0 Participation as a Requirement of Employment

Participation in MAX's prohibited substance abuse testing program is a requirement of each safety-sensitive employee, and therefore, is a condition of employment. Pursuant to the Drug-Free Workplace Act of 1988, an employee must notify the employer in writing of his or her conviction for a violation of any criminal drug statute no later than five calendar days after such conviction.

5.0 Prohibited Behavior

Any employee is prohibited from engaging in or unlawfully manufacturing, distributing, dispensing, possessing, or using controlled substances in the workplace consistent with Drug-Free Workplace Act of 1988. **Any safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty, shall be suspended from job duties pending an investigation and verification of condition. Employees found to be under the influence of prohibited substances or who fail to pass a drug or alcohol test, shall be removed from duty and subject to disciplinary action.** A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance or alcohol in the body above the minimum thresholds defined in 49 CFR Part 40.

Use of illegal drugs is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body at or above the minimum thresholds defined in Part 40. Prohibited drugs include:

- marijuana
- cocaine
- phencyclidine (PCP)
- opioids
- amphetamines

6.0 Consequences for Use of Drugs and Misuse of Alcohol

FTA rules mandate that a safety-sensitive employee who refuses to submit to a test, has a verified positive drug result, has an alcohol concentration of 0.04 or greater, or has an alcohol concentration of 0.02 or greater but less than 0.04, must be removed immediately from his or her safety-sensitive function. The rules further mandate referral to a Substance Abuse Program for evaluation for any safety-sensitive employee who has a verified positive drug test result, an alcohol concentration of 0.04 or greater, or refuses to submit to a test. **Any employee with a confirmed positive drug or alcohol test or any employee refusing drug or alcohol testing, will be "subject to disciplinary action, including, but not limited to termination of employment."**

FTA policy notes that 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 referred to a Substance Abuse Professional.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties for at least eight hours unless a retest results in the employee's alcohol concentration being less than 0.02.

Treatment/Discipline

Per Macatawa Area Express Transportation Authority policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be referred to a Substance Abuse Professional (SAP) and may be **disciplined up to termination of employment.**

All covered employees are prohibited from performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater. **MAX policy specifies that an employee who has a confirmed alcohol concentration of 0.02 or greater but less than 0.04 will be removed from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02** and **may be subject to disciplinary action, including, but not limited to termination of employment.**

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform 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 his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

All covered employees are prohibited from consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

All covered employees are prohibited from consuming alcohol for eight (8) hours following involvement in an accident or until he or she submits to the post-accident drug and alcohol test, whichever occurs first.

7.0 Circumstances for Testing

Pre-Employment Testing

Pre-employment alcohol tests are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.

A negative pre-employment drug test result is required before an 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.

If a covered employee has not performed a safety-sensitive function for 90 or more consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before he or she can return to a safety-sensitive function. [2]

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

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when Macatawa Area Express Transportation Authority 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 that are consistent with possible drug use and/or alcohol misuse. Supervisors shall prepare a written record documenting the probable drug and/or alcohol misuse.

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.

Post-Accident Testing

Covered employees shall be subject to 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 Macatawa Area Express Transportation Authority using the best information available at the time of the decision, will 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:

[2] When there is a "dilute specimen" (specimen contains creatinine or specific gravity values that do not match human urine) or what is otherwise considered a "Non-negative specimen" (such as when reported as adulterated, substituted, and/or invalid), the MRO will communicate with the employee and will instruct MAX what action is needed.

(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
(3) The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, 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 Macatawa Area Express Transportation Authority using the best information available at the time of the decision, will be tested.[3]

Following an accident, if the covered employee is not administered an alcohol test within 2 hours following the accident, the Supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, MAX Supervisor shall cease attempts to administer an alcohol test and maintain the record. Following an accident, the employee is required to be drug tested as soon as practicable but within 32 hours of the accident.

The decision not to administer a drug and/or alcohol test under this section shall be based on the employer's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.

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. Any employee who leaves the scene of the accident without authorization prior to submission to drug and alcohol testing **may be deemed by MAX to have refused to submit to the test and their employment will be terminated.**

The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section provided such test confirms to the applicable Federal, State, or local testing requirements, and that the test results are obtained by the employers.

Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year by the FTA administrator. The current year testing rates can be viewed online at www.transportation.gov/odapc/random-testing-rates.

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.

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

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

[3] Testing needs to be done under "direct observation".

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 substance abuse professional (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. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

Follow-up Testing

Any safety sensitive employee who has committed a DOT drug or alcohol regulation violation and seeks to resume the performance of safety sensitive functions, must complete a follow-up testing plan. This plan is a written follow-up plan established by a certified Substance Abuse Professional (SAP) and requires completion of recommendations of the SAP for education and treatment, and a testing plan.[4].

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation 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.

There will be a minimum of six unannounced follow-up drug and/or alcohol tests during the first 12-month period, based on the plan as written by the SAP. These tests will be scheduled by MAX on dates of our choosing, with no advance notice. The SAP may require a greater number of follow-up tests during the first 12-month period of safety-sensitive duty (e.g., The SAP may require one test a month during the 12-month period; The SAP may require two tests per month during the first 6-month period and one test per month during the final 6-month period). The SAP may also require follow-up tests during the 48 months of safety-sensitive duty following this first 12- month period. [5]

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.

[4] 40.281 (c)(1) (vi)
[5] 40.307 (d) (2)

8.0 Testing Procedures

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

Dilute Urine Specimen

If there is a negative dilute test result, Macatawa Area Express Transportation Authority will conduct one additional retest. The result of the second test will be the test of record.

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. Macatawa Area Express Transportation Authority guarantees that the split specimen test will be conducted in a timely fashion.

Any employee who questions the results of a required drug test under this policy may request that the split specimen be tested. This test must be conducted at a different testing DHHS-certified laboratory. The test must be conducted on the split specimen that was provided at the same time as the primary specimen. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. The employee's request for a re-test must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. . **The employee will ultimately be responsible for the cost of the testing of the split specimen.** Employee payment will not be a condition of the timely analysis of the sample.

9.0 Record Keeping

Confidentiality of records of substance abuse testing will be maintained in accordance with 49 CFR Part 655. Test results may be released only under the following circumstances:

- Upon written request, an employee may obtain copies of records pertaining to his or her use of prohibited drugs, including any records pertaining to his or her drug tests.
- MAX shall disclose data for its substance abuse program when requested by the Secretary of Transportation or any DOT agency with regulatory authority over MAX or any of its employees.

- MAX is required to permit access to all facilities utilized in complying with the requirements of its DOT mandated substance abuse program to the Secretary of Transportation or any DOT agency with regulatory authority over MAX or any of its employees.
- When requested by the National Transportation Safety Board as part of an accident investigation, MAX shall disclose information related to its administration of a drug test following the accident under investigation.
- Records related to substance abuse testing of an employee shall be made available to a subsequent employer upon receipt of a written request from the employee. Subsequent disclosure by MAX is permitted only as expressly authorized by the terms of the employee's request.
- MAX may disclose information required to be maintained as part of its substance abuse policy which pertains to an employee, either to the employee or to the decision maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the individual, and arising from the results of a drug/alcohol test administered under the DOT's required drug and alcohol testing program.
- MAX shall release information regarding an employee's record as directed by specific, written consent of the employee authorizing release of the information to an identified person**.**

10.0 Observed Testing

As required by applicable regulations (49 CFR 40.47), individuals will be required to submit to a direct observed collection without advance notice under the following conditions:

- 40.67(c)(3): The temperature on the original specimen was out of range
- 40.67(c)(4): The original specimen appeared to have been tampered with
- 40.67(a)(1): The laboratory reported to the Medical Review Officer (MRO) that a specimen is invalid, and the MRO reported to MAX that there was not an adequate medical explanation for the result
- 40.67(a)(2): The Medical Review Officer (MRO) reported to MAX that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed
- 40.67(a)(3): The laboratory reported to the Medical Review Officer (MRO) that the 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 reported the specimen to MAX as negative-dilute and that a second collection must take place under direct observation
- 40.67(b): … The drug test is a return-to-duty test or a follow-up test.

11.0 Behavior That Constitutes a Refusal to Submit to a Test

As a covered employee, you have refused to test if you:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by Macatawa Area Express Transportation Authority.

(2) Fail 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 has not refused to test.
(3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has 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 drug collection, fail to permit monitoring or observation of your provision of a specimen.
(5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
(6) Fail or decline to take a second test as directed by the collector or Macatawa Area Express Transportation Authority for drug testing.
(7) Fail to undergo a medical evaluation as required by the MRO or Macatawa Area Express Transportation Authority's Designated Employer Representative (DER).
(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 test.
(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.
(14) Fail to provide an adequate amount of saliva or breath.
(15) Fail to provide sufficient breath specimen if evaluating physician finds that there was no medical reason for the employee to provide an insufficient amount of breath it is a refusal.
(16) Fail to undergo a medical examination or evaluation as the employer has directed as part of the insufficient breath procedures.
(17) Fail to cooperate with any part of the alcohol testing process.

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.

As a covered employee, if you refuse to take a drug and/or alcohol test, you incur the same consequences as testing positive and will be immediately removed from performing safety-sensitive functions.

When the Designed Employer Representative (DER) determines whether circumstances occurring at a collection site warrant a determination of a refusal, the employer should document the basis for its decision. The documentation will be important to have if there is an inquiry or inspection by a DOT agency.

12.0 Voluntary Self-Referral

MAX recognizes a commitment to any employee who may seek assistance with a substance abuse problem outside the scope of the testing program. Accordingly, any employee who suspects that he or she may have a substance abuse problem is encouraged to use available resources before the problem impacts his/her employment status.

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 or himself to the Drug and Alcohol Program Manager or Human Resource Personnel, who will refer the individual to a substance abuse counselor for evaluation and treatment.

It is MAX's policy to allow employees who voluntarily seek assistance via a substance abuse counselor outside the scope of the testing program to use all earned benefits, including any available health insurance benefits, paid time off, short term disability (not to exceed the term of the available insurance), and unpaid leave of absence necessary while obtaining help for a substance abuse problem. The provision will not apply to any employee who tests positive through the testing program.

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 his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

Identification of Substance Abuse Counselor or Therapist available locally is attached. This list is to be used as a resource and is not to be considered inclusive. Those individuals wishing to obtain services under benefits provided by health insurance should use only those services covered under their health provider benefits.

13.0 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 Drug and Alcohol Program Manager or Human Resource Personnel. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

14.0 Annual Management Information System (MIS) Data Reporting

FTA requires employers to complete and maintain an MIS annual report by the deadline of no later than March 15.

15.0 Contact Person

For questions about Macatawa Area Express Transportation Authority's Substance Abuse Program, contact:

Primary Designated Employer Representative:
Operations Manager/Chief Safety Officer, Susan Gorby (*Program oversight*)
Human Resources Coordinator, Tawney Valderas (*Program administrator*)
Macatawa Area Express
171 Lincoln Ave Suite 20
Holland, MI 49423
(616) 294-5183
t.valderas@catchamax.org

Alternate Designated Employer Representative:
Dispatch Coordinator, Pamela Pedersen
Macatawa Area Express
171 Lincoln Ave Suite 20
Holland, MI 49423
(616) 928-2482

APPENDIX A: Covered Positions

Safety –Sensitive Positions at MAX

Operations Manager
Transportation Supervisor
Dispatch Coordinator
Dispatchers
Road Supervisors
Bus Operators
Utility Workers
Safety and Training Manager

Approval by Governing Board

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Russell TeSlaa, Board Chairman - Macatawa Area Express