



# Kansas RTAP Fact Sheet

A Service of The University of Kansas Transportation Center for Rural Transit Providers

## FTA Q's and A's

by Jacob Bustad

[Here are a few more questions and answers from the Federal Transit Administration's Drug and Alcohol Discussion Forum at <http://transit-safety.volpe.dot.gov/>. Answers are from Mike Reddington, FTA.]

**Question:** Our agency does on-site drug testing, versus taking them to a remote testing site. During a “shy-bladder” scenario, does the driver have to be placed in a private area while they are drinking water and waiting to attempt another donation?

**Answer:** During the potential 3-hour time period in a shy bladder situation, when a safety-sensitive employee has been provided with 40 ounces of fluid, there is no requirement that the safety-sensitive employee be in a private area. The waiting area may be open to public access, as are most waiting rooms at collection sites. The collection site must be able to monitor the employee during this potential 3-hour period.

40.193(b)(3) states: “If the employee refuses to make the attempt to provide a new urine specimen or leaves the collection site before the collection process is complete, you must discontinue the collection, note the fact on the ‘Remarks’ line of the CCF (Step 2), and immediately notify the DER. This is a refusal to test.”

**Question:** I have looked and do not see a listing of what job positions/duties are classified by DOT or FTA as safety sensitive and require [us to] subject those employees doing those jobs to drug and alcohol testing. Where is a list of safety sensitive job titles/duties? My union and employer are in



the middle of contract negotiations, as part of the bargaining sessions, [and] my employer wants to expand the job classifications they say are safety sensitive and subject to random testing. Some of these positions seem silly insofar as being safety sensitive..ie: Library Aid and Library Assistant. We already have provisions for reasonable suspicion testing for all personnel as well as required random testing for all personnel holding commercial drivers licenses. What else is required under federal laws?

**Answer:** 49 CFR Part 655—Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations—is the Federal Transit Administration drug and alcohol regulation.

49 CFR Part 655.4, “Definitions,” contains the following definitions that are applicable to your inquiry. —Covered employee means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to this part. A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for

an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity. —Performing (a safety-sensitive function) means a covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

—Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors: (1) Operating a revenue service vehicle, including when not in revenue service; (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; (3) Controlling dispatch or movement of a revenue service vehicle; (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. 5307 or 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. 5311 and contracts out such services; (5) Carrying a firearm for security purposes.

There are many requirements under federal law, the majority are covered under the DOT regulation, 49 CFR Part 40, and the FTA regulation, 49 CFR Part 655.

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