

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
7	01/24/11	Open	Action	01/24/11

Subject: Revised Drug and Alcohol Testing and Rehabilitation Policy

ISSUE

Whether or not to adopt a revised Drug and Alcohol Testing and Rehabilitation Policy for Sacramento Regional Transit District employees.

RECOMMENDED ACTION

Adopt Resolution No. 11-01_____, Repealing Resolution No. 08-12-0165 and Approving the Revised Sacramento Regional Transit District Drug and Alcohol Testing and Rehabilitation Policy.

FISCAL IMPACT

None as a result of this action.

DISCUSSION

The Department of Transportation (DOT) revised 49 CFR Part 40 in a Federal Register published October 1, 2010. Staff made changes to the District's Drug and Alcohol Testing and Rehabilitation Policy to conform to the new regulations. The majority of changes were technical and had no impact on the administration of the policy. However, there was one significant change made in the regulations which involved lowering of the initial and confirmation cutoff levels of the drug tested. Another significant change was expanding the list of drugs tested to include Ecstasy (Methylenedioxymethamphetamine), which is part of the Amphetamine drug family. Staff also took this opportunity to make other administrative revisions to provide more clarification to the policy.

The revised Policy is attached hereto as Exhibit 1. Staff recommends approval of the revised Policy. Upon approval, a copy will be provided to all current and newly hired employees as required by applicable regulations.

Approved:

Presented:

FINAL 1/18/11

General Manager/CEO

Acting Director Labor Relations

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RESOLUTION NO. 11-01-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

January 24, 2011

**REPEALING RESOLUTION NO. 08-12-0165 AND APPROVING THE REVISED
SACRAMENTO REGIONAL TRANSIT DISTRICT DRUG AND ALCOHOL TESTING
AND REHABILITATION POLICY**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE
SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, Resolution 08-12-0165 adopted on December 8, 2008, is hereby repealed.

THAT, the revised Sacramento Regional Transit District Drug and Alcohol Testing
and Rehabilitation Policy, attached hereto as Exhibit 1, is hereby approved.

DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

SACRAMENTO REGIONAL TRANSIT DISTRICT
Drug and Alcohol Testing and Rehabilitation Policy

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ADOPTED BY THE
SACRAMENTO REGIONAL TRANSIT DISTRICT
BOARD OF DIRECTORS
ON

January 24, 2011

RESOLUTION No. 11-01-_____

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PREVIOUS REVISIONS

08-12-0165 (12-25-2008)
08-08-0118 (08-25-2008)
05-03-0061 (03-28-2005)
03-04-0097 (04-28-2003)
01-10-0217 (10-08-2001)
01-04-0070 (03-13-2001)
00-10-0218 (10-23-2000)
94-10-2228 (10-06-1994)

SACRAMENTO REGIONAL TRANSIT DISTRICT DRUG AND ALCOHOL TESTING AND REHABILITATION PROGRAM

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SACRAMENTO REGIONAL TRANSIT DISTRICT DRUG AND ALCOHOL TESTING AND REHABILITATION PROGRAM

1.0 POLICY

The Sacramento Regional Transit District (SRTD) is dedicated to providing safe, dependable and economical transportation services to our transit system passengers. SRTD employees are our most valuable resource. It is SRTD's goal to provide a healthy, and satisfying working environment that promotes personal opportunities for growth. In meeting these goals, it is SRTD's policy to:

- a. Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner;
- b. Create a workplace environment free from the adverse effects of the use or misuse of alcohol or controlled substances¹;
- c. Reduce absenteeism, tardiness and indifference to job performance as a result of the use or misuse of alcohol or controlled substances;
- d. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and
- e. Encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affecting their ability to perform their assigned duties.

2.0 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect SRTD's employees, passengers, and the public from the risks posed by the use or misuse of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace drug prevention programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT) has enacted regulation 49 CFR Part 655, that mandates urine drug testing and alcohol testing for transit employees working in safety sensitive classifications and to prevent performance of safety sensitive functions by employees when there is a positive drug or alcohol test result. The 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 regulations (49 CFR Part 32) implementing "The Drug-Free Workplace Act of 1988," that requires the promulgation of a drug-free workplace policy and the reporting of certain drug-

1. The terms "controlled substances", "prohibited drugs" and "prohibited substances" are used interchangeably.

related convictions. This policy incorporates those requirements as amended from time to time. Copies of the regulations are available by contacting an SRTD staff member identified in Appendix F.

The provisions contained in this policy that are implemented under SRTD's authority are identified by a bold, italicized font. All other provisions are implemented by the authority of and pursuant to the DOT and FTA regulations at 49 CFR Parts 32, 40 and 655.

3.0 APPLICATION OF POLICY

This policy applies to:

3.1 SRTD's Safety Sensitive Employees

All SRTD safety sensitive employees are required to submit to drug and alcohol testing when they are on duty or subject to duty pursuant to 49 CFR Part 655.

An employee shall be designated "safety sensitive" if he or she performs any of the following duties:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License;
- Controlling dispatch or movement of a revenue service vehicle;
- Maintaining a revenue service vehicle or equipment used in revenue service;
- Carrying a firearm for security purposes; or
- Supervisors of employees performing the foregoing activities provided they perform, or may be called upon to perform, safety sensitive tasks.

SRTD's safety sensitive job classifications are identified in Appendix A.

3.2 SRTD's Non-Safety Sensitive Employees

All SRTD non-safety sensitive employees are required to submit to drug and alcohol testing under the following testing criteria:

- ***Reasonable Suspicion testing - if there is reason to believe the employee may be under the influence of a prohibited substance;***
- ***Return to-Duty and Follow-up Testing – when the employee enters the Voluntary Rehabilitation program.***

SRTD's non-safety sensitive job classifications are identified in Appendix A.

4.0 PROHIBITED SUBSTANCES

“Prohibited substances” addressed by this policy are:

4.1 Controlled Substances or Illegal Drugs (including their metabolites)

The consumption of any of the following substances, such that it is present in the body at or above the level stated in the regulations while on duty or subject to duty, is prohibited (see Section 5.2 below).

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

4.2 Alcohol

The consumption of any substance, including medication, containing alcohol such that it is present in the body at or above the level stated in the regulations while on duty or subject to duty, is prohibited (see Section 5.3 below).

4.3 Legal Drugs (Prescription and Over-the-Counter Medications)

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. FTA regulations do not mandate employees that perform safety sensitive functions to report prescription and over-the-counter medication use. However, it is imperative that employees recognize that prescription medications and certain over-the-counter medications may affect their ability to perform their job duties. It is the responsibility of each safety sensitive employee to inform their physician about the type of job duties they perform and to be aware of the effect drugs may have on the performance of their job.

5.0 PROHIBITED CONDUCT

Prohibited conduct addressed in this policy includes the following:

5.1 Manufacture, Trafficking, Possession, and Use of Drugs

No employee, while on duty, on SRTD premises or in an SRTD vehicle, may unlawfully manufacture, distribute, dispense, possess or use a prohibited substance or unlawfully assist another person engaging in such conduct. An employee engaged in any such conduct is subject to termination of employment (Drug Free Workplace Act of 1988).

5.2 Prohibited Drug Use

Consumption of any of the substances listed in Section 4.1 above is prohibited at all times.

5.3 Prohibited Alcohol Use

No employee is permitted to report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.02 or greater. All employees are prohibited from consuming alcohol while on duty. No safety sensitive employee shall use alcohol while performing safety sensitive functions, within four hours of reporting to duty, nor during the hours that he/she is on call. An on-call employee will be allowed the opportunity to acknowledge the use of alcohol at the time he/she is called to report for duty. If the employee claims to be able to perform their safety sensitive duties, he/she will be required to take an alcohol test before being permitted to commence on-duty work.

A safety sensitive employee with a breath alcohol concentration of 0.02 but less than 0.04 is prohibited from performing safety sensitive duties for 8 hours or until a retest indicates a concentration below 0.02. A breath alcohol concentration of 0.04 or greater is considered a positive result and in violation of this policy. ***An employee who violates any of these provisions will be subject to disciplinary action, up to and including termination from employment.***

6.0 EDUCATION AND TRAINING

6.1 General

SRTD has established an education and training program for its employees that addresses the adverse effects of drugs and alcohol. All employees will receive education and informational material on the adverse effects of drugs and alcohol. Specifically, employees will receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use on personal safety, health and the work environment, and the signs and symptoms that indicate prohibited drug use.

6.2 Supervisor

All Supervisors or company officials of safety sensitive employees who are in a position to determine employee fitness for duty, will also receive two hours of reasonable suspicion training in addition to the above general training. Supervisory training shall consist of at least 60 minutes of training on the physical, behavioral and performance indicators of probable drug use and at least sixty (60) minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Supervisors or company officials of non-safety sensitive employees will receive a minimum of one hour of reasonable suspicion training in addition to the above general training.

7.0 BEHAVIOR CONSTITUTING A REFUSAL TO SUBMIT TO TESTING

7.1 Drug Testing: Refusal to Submit to a Drug Test Includes Any of the Following Acts or Omissions

- a. Failure to appear for any test (except pre-employment testing) within a reasonable time as determined by SRTD, after being directed to do so;
- b. Failure or declining to take a second test as instructed by SRTD or the collector;
- c. Failure to cooperate with any part of the testing process (e.g. refusal to empty pockets or wash hands when directed by the collector, behaving in a confrontational way that disrupts the collection process);
- d. Failure to follow the observer's instructions during an observed collection.
- e. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- f. Admit to the collector or MRO that a specimen was adulterated or substituted.
- g. Failure to remain at the testing site once testing commences;
- h. Failure to remain at the scene of an accident prior to submission to a drug test without a legitimate explanation;
- i. Failure or declining to provide an adequate amount of urine when directed, and when it is determined there is no medical explanation for the failure to provide such;
- j. In the case of an observed or monitored collection, any failure to permit observation or monitoring of the provision of the specimen;
- k. Any failure to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or by the DER as part of the "shy bladder" verification process;
- l. Providing false information in connection with a drug test, or if verified by the MRO to have falsified test results by tampering, adulterating, or substituting specimen.

7.2 Alcohol Testing: Refusal to Submit to an Alcohol Test Includes any of the Following Acts or Omissions

- a. Failure to appear for any test (except pre-employment testing) within a reasonable time as determined by the SRTD, after being directed to do so;
- b. Failure or declining to take a second test as instructed by SRTD or the collector;
- c. Failure to cooperate with any part of the testing process;
- d. Failure to remain at the testing site once testing commences;
- e. Failure to remain at the scene of an accident prior to submission to an alcohol test without a legitimate explanation;
- f. Failure to provide an adequate amount of saliva or breath specimen for any alcohol test as required under 49 CFR Part 40 and 655 regulations, and the physician has determined through medical examination or evaluation there is no adequate medical explanation for the failure;
- g. In the case of an observed or monitored collection, any failure to permit observation or monitoring of the provision of the specimen;
- h. Any failure to undergo a medical examination or evaluation as directed by the MRO

- or by the DER as part of the verification process;
- i. Failure or refusal to sign the certification as required at step two of the Alcohol Testing Form (ATF);

7.3 Consequences of a Refusal to Submit to a Required Drug or Alcohol Test

An employee refusing to submit to a drug or alcohol test or exhibits a behavior considered a 'Refusal' as specified in Section 7.1 and 7.2 above, will be subject to termination from employment.

8.0 REQUIRED NOTIFICATION OF A CRIMINAL CONVICTION

All employees are required to notify SRTD within 5 days of any conviction of a criminal drug statute violation that occurs in the workplace. Any employee who fails to notify SRTD of such a conviction will be subject to termination of employment. (Drug Free Workplace Act of 1988)

9.0 CIRCUMSTANCES UNDER WHICH AN EMPLOYEE WILL BE TESTED

Employees will be subject to drug and/or alcohol testing under the following circumstances:

9.1 Pre-Employment Testing

(This section of the policy applies to safety sensitive employees and non-safety sensitive employees applying for a safety-sensitive classification)

- a. **Applicants:** A non-safety sensitive employee or external applicant for employment in a safety sensitive classification will be required to take a pre-employment drug test, administered pursuant to 49 CFR Part 655. A verified negative result must be obtained ***prior to any offer of employment and*** prior to performing any safety sensitive duties. ***A positive test result will prohibit the non-safety sensitive employee from applying for a safety sensitive position until he/she successfully completes the prescribed rehabilitation program. A positive test result will disqualify the applicant from further consideration for employment for any position for six (6) months.***

All applicants for employment in a safety sensitive classification must provide SRTD with written consent to obtain his or her drug and alcohol testing records from prior DOT covered employers for the previous 24 months. ***Failure to provide this consent will disqualify the applicant from further consideration for employment.***

If an employee or applicant submits a specimen for testing that the MRO verifies as having been adulterated or substituted, he or she will be considered to have refused the test. ***The employee will be subject to consequences as listed in section 7.3 above. The applicant will be prohibited from any future consideration for***

employment with SRTD.

If more than 90 days have elapsed between the time of successfully completing pre-employment test and the assignment of safety sensitive duties, another pre-employment test will be required.

- b. **Extended Absences:** When a safety sensitive employee is on an extended leave for a period of 90 days or more, regardless of the reason, and has been out of the random selection testing pool, he/she will be required to take a pre-employment drug test and obtain a verified negative result before returning to safety sensitive duties.

9.2 Reasonable Suspicion Testing

All employees, including non-safety sensitive and safety sensitive employees, are subject to reasonable suspicion testing. Reasonable suspicion testing is designed to provide a tool to identify employees who may pose a danger to themselves and others in the performance of their job duties. A drug and/or alcohol test will be conducted when there is reason to believe an employee may be under the influence of a prohibited substance as defined in sections 4.1 and 4.2, above. A decision to make a reasonable suspicion referral for testing will be made on the basis of documented, specific, contemporaneous and articulable observations made by a supervisor or company official who is trained to recognize the signs and symptoms of probable drug and/or alcohol use.

A referral for drug testing for reasonable suspicion can be conducted on an employee anytime while on duty. A referral for alcohol testing for reasonable suspicion can be conducted on a safety sensitive employee only if the observations are made during, just preceding, or immediately following the performance of safety sensitive duties.

9.3 Post-Accident Testing

(This section of the policy applies only to safety sensitive employees.)

- a. **Definition of Accident:** An accident, as defined by the FTA, is an occurrence associated with the operation of a vehicle (including operation of its disabled persons lift) in which:
- An individual dies, or
 - An individual is injured, requiring immediate medical treatment away from the scene of an accident;
 - The vehicle involved incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle; or
 - The mass transit vehicle involved is removed from operation.

Post-accident drug and alcohol testing will occur under the following circumstances:

- b. **Fatal Accident:** As soon as practicable following an accident involving the loss of

human life, the employee operating the transit vehicle at the time of the accident shall submit to an alcohol and drug test. Further, any other employee whose performance could have contributed to the accident, as determined by SRTD, using the best information available at the time of the decision, shall also be required to submit to an alcohol and drug test.

- c. **Non-fatal Accident:** As soon as practicable following an accident not involving the loss of human life, the employee operating the transit vehicle at the time of the accident shall submit to an alcohol and drug test unless SRTD determines, using the best information available at the time of the decision, that the employee's performance can be completely discounted as a contributing factor to the accident. In addition, any other employee (**i.e., maintenance or dispatch personnel**) whose performance could have contributed to the accident, as determined by SRTD, using the best information available at the time of the decision, will be required to submit to an alcohol and drug test.
- d. **Testing Guidelines:** Post Accident drug and alcohol tests will be performed as soon as possible. Drug test will be performed within 32 hours following the accident. Alcohol test will be performed within 8 hours. An employee involved in an accident is prohibited from using alcohol for 8 hours following the accident or until he/she undergoes a post accident alcohol test. SRTD will attempt to complete the post accident alcohol test within 2 hours following the accident. If that is not possible, the reason for the delay will be documented and continued attempts to complete the test will proceed until 8 hours following the accident, after which attempts to complete the alcohol test will cease. Documentation of why the drug and alcohol test could not be performed within the required time frame will be prepared and submitted to the DER.

The requirement for performing a required drug and alcohol test following an accident will in no way delay necessary medical care for injured employee, nor prohibit a safety sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident.

- e. **Post-Accident Testing Availability:** An STRD employee involved in an accident who fails to remain readily available for the drug and alcohol testing, including keeping SRTD officials notified of his/her location, if permitted to leave the scene of the accident before the tests have been completed, will be deemed to have refused to submit to testing.

9.4 **Random Testing**

(This section of the policy applies only to safety sensitive employees.)

All safety sensitive employees will be subject to unannounced, randomly selected, drug and alcohol testing. The random selection procedure shall be implemented using a scientifically valid method that ensures each safety sensitive employee will have an equal

chance of being selected each time selections are made. All safety sensitive employees will be placed in a Random testing pool. Through the use of a computer based random number generation program, employees are selected weekly for testing. The number of employees randomly selected for drug and alcohol testing during the year shall be in accordance with the testing rates established by the FTA on an annual basis. **SRTD may test at a slightly higher percentage to offset cancelled tests.** Random testing will be administered on all days and hours during which transit service or maintenance of vehicles and equipment is in operation throughout the calendar year. An employee who is randomly selected must be tested immediately after being notified of his/her selection.

Random testing for alcohol shall be during, just before, or just after the employee's performance of a safety sensitive function. Random testing for prohibited drugs may occur at any time while the employee is on duty.

9.5 Return-to-Duty Testing

A Return-to-duty test is completed by an employee following a verified positive drug test, an alcohol result of 0.04 or greater, a refusal to submit to a DOT required drug or alcohol test and **completion of a voluntary rehabilitation.** An employee is not permitted to "return-to-duty" until the following actions have been taken:

1. Employee has been evaluated by a Substance Abuse Professional (SAP) who is qualified in accordance with 49 CFR Part 40 Subpart O.
2. Employee has adhered to the course of treatment as prescribed by the SAP.
3. Employee has submitted to a return-to-duty urine drug test and/or breath alcohol test and SRTD is in receipt of a negative result(s).

A DOT Return-to-duty test will be conducted under direct observation. See section 10 for a description of direct observation collection procedures. Employees completing a Return-to-duty test as part of the voluntary rehabilitation treatment, will not be subject to an observed collection.

9.6 Follow-up Testing

Upon completing the Return-to-duty process, an employee will be required to undergo unannounced "Follow-up" drug and/or alcohol testing. Such testing is separate from and in addition to all other required testing. The number and duration of the Follow-up testing program shall be at the direction of the SAP. However, such testing will be no less than 6 tests during the first 12 months following return to duty and may be any number, as specified by the SAP, but shall not continue longer than sixty (60) months following return to duty. An employee with a verified positive test result on a Follow-up test will be **terminated from employment** and referred to a SAP for evaluation.

Follow-up drug testing under DOT authority will be conducted using the direct observation collection procedures. **Employees completing a Follow-up drug test as part of the voluntary rehabilitation treatment, will not be subject to an observed collection.**

10.0 CONDITIONS FOR AN OBSERVED COLLECTION

The following are conditions in which an observed collection will be conducted:

- The individual has presented a urine sample that falls outside the accepted temperature range.
- The collection site personnel observed materials brought to the collection site or the employee's conduct clearly indicate an attempt to substitute or adulterate the sample (e.g. substitutes urine in plain view, blue dye in specimen presented, etc.)
- A specimen was reported as invalid with no medical explanation.
- When the split specimen is unavailable to confirm following a positive, adulterated, or substituted test result.
- Specimen reported by the MRO as negative-dilute with creatinine level between 2 – 5 mg/dl.
- Test is conducted pursuant to Return-to-duty or Follow-up testing.

During an observed collection, the employee who is being observed will be required to raise his or her 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 collector/observer must witness the employee's urine leave the body and enter the collection cup. The collector/observer must be of the same gender as the employee being observed.

11.0 PROCEDURES FOR DRUG AND ALCOHOL TESTING

11.1 Drug Testing Procedures

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures in 49 CFR Part 40, as amended. The collection procedures will be performed in a confidential manner, and every effort will be made to protect the employee, the integrity of the testing procedure, and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines and phencyclidine. After the identity of the donor is checked using picture identification, a urine 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 DOT Chain of Custody and Control Form (CCF) and identified using a unique identification number that attributes the specimen to the correct individual. A Non-DOT CCF will be used for testing under company authority. An initial drug screen will be conducted on the primary urine specimen. For those specimens with non-negative initial drug screen results, a confirmatory Gas

Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended. The cutoff concentration is displayed in the following table for initial and confirmatory drug tests. All cutoff concentration is expressed in nanograms per milliliter (ng/mL):

Initial test analyte	Initial test cutoff Concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA ¹	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoylcegonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine ²	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines³			
AMP/MAMP ⁴	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine ⁵	250 ng/mL
MDMA ⁶	500 ng/mL	MDMA	250 ng/mL
		MDA ⁷	250 ng/mL
		MDEA ⁸	250 ng/mL

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). A MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. Before verifying that an employee has a positive test result, the MRO is responsible for contacting the employee to determine whether the employee wishes to discuss the test, or present a legitimate medical explanation for the positive test result. The MRO will subsequently

1 Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA)

2 Morphine is the target analyte for codeine/morphine testing.

3 Either a single initial test kit or multiple initial test kits may be used, provided the single test kit detects each target analyte independently at the specified cutoff.

4 Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

5 To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

6 Methylenedioxymethamphetamine (MDMA)

7 Methylenedioxyamphetamine (MDA)

8 Methylenedioxyethylamphetamine (MDEA)

review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation exists to explain the test result, the test will be verified positive, substituted or adulterated and reported to SRTD's DER. If the MRO determines that an employee has a legitimate medical explanation for a positive test result, the MRO will report the test result as negative. If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees that have a verified positive drug test result, or a test refusal due to adulteration or substitution, may request a test of their split specimen (employees do not have access to a test of their split specimen following an invalid result). The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee.

If the analysis of the split specimen test confirms the presence of the originally reported drug or metabolite, the test is reported as a verified positive test and the employee remains prohibited from performing safety sensitive tasks.

If either the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct SRTD to retest the employee under direct observation.

The cost of the split specimen will be paid by SRTD; however, SRTD may seek reimbursement from the employee for such costs if the test result is positive.

If an employee submits a specimen for testing, which the MRO verifies has been adulterated or substituted, the employee will be considered to have refused the test and ***is subject to termination from employment.***

Any specimen testing positive and reported as "dilute" by the MRO, will be treated as a verified positive test. ***Any specimen reported by the MRO as negative "dilute" with a creatinine level \geq 5 mg/dl may be retested. This applies to Pre-Employment, Return-to-Duty and Follow-up testing.*** Any specimen reported by the MRO as negative "dilute" with a creatinine level between 2 – 5 mg/dl will require a retest under direct observation and applies to all testing.

11.2 Alcohol Testing Procedures

Breath alcohol testing, pursuant to this policy, will be conducted regardless of whether the alcohol was ingested as a beverage that included alcohol or in a medicinal or other preparation.

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing Device (EBT) operated

by a trained Breath Alcohol Technician (BAT). The DOT Alcohol Testing Form (ATF) will be used for every DOT alcohol test. ***A Non-DOT alcohol testing form will be used for non-safety sensitive employees under SRTD authority.*** 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 will be conducted at least 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. 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 employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section 12 of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day, whichever is longer. An alcohol concentration of less than 0.02 will be considered a negative test.

12.0 DRUG AND ALCOHOL TEST RESULTS AND CONSEQUENCES

12.1 Dilute Test Result

1. A drug test reported as positive dilute will be treated as a verified positive test.
2. ***A Pre-Employment, Return-to-duty or Follow-up drug test with a negative dilute result will be retested. The second test will be the recorded test.***
3. A drug test reported by the MRO as negative "dilute" with a creatinine level between 2 – 5 mg/dl will be retested immediately under direct observation collection procedure.

12.2 Non-Negative Alcohol Test Result

An alcohol test result of ≥ 0.02 to ≤ 0.04 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day, whichever is longer. The employee will not be able to return to his/her safety sensitive duty until he/she submits to an alcohol test with a result of less than 0.02 BAC. ***If the employee has another alcohol test result of ≥ 0.02 to ≤ 0.04 BAC within 36 months from the first non-negative test result, in addition to being relieved from duty for the day, the employee will be subject to a 2-day disciplinary suspension and referred to mandatory rehabilitation.***

12.3 Positive Test Result

After receiving notice of a verified positive drug test result, a confirmed alcohol test result

(≥ 0.04), or a test refusal, SRTD's DER (or designee) will contact the employee's supervisor to have the employee removed from his/her safety sensitive function, or relieved from work for a non-safety-sensitive employee. SRTD's DER (or designee) will meet with the employee and set up an appointment for the employee to meet with the SAP. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.

For the first instance of a verified positive drug or alcohol test result, the disciplinary action against the employee shall include:

1. Mandatory referral to SAP for assessment, formulation of a treatment plan, and execution of a return to work agreement;
2. ***Failure to execute, or remain compliant with the return to work agreement will result in termination from employment.***
 - Compliance with the return to work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgement of the SAP, the employee is cooperating with his/her SAP recommended treatment program; and the employee has agreed to periodic unannounced follow-up testing.
3. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
4. A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from employment.

The second instance of a verified positive drug or alcohol test result will result in termination from employment.

13.0 VOLUNTARY REHABILITATION TREATMENT

Employees who feel they may have a problem with drugs and/or alcohol may voluntarily request admission to a rehabilitation program. Requests must be referred to SRTD's DER or his or her designee for review and referral to the rehabilitation program administrative staff. To be eligible for admission to a rehabilitation program, an employee must request treatment: (a) before he/she has been requested to submit to a drug or alcohol test or (b) before he/she is charged with an offense for which the proposed discipline is termination, unless the action of termination is not imposed or it is reversed. Program costs will be paid by SRTD. An employee who is admitted to a rehabilitation program and thereafter fails to attend or complete the program will be terminated.

An employee completing a rehabilitation program must pass a Return-to-Duty drug and/or alcohol test and will be subject to a number of Follow-up tests, as determined by the SAP. A verified positive test (for any reason) after an employee has successfully completed treatment in rehabilitation, will result in termination from employment. An employee is afforded a maximum of 2 (two) voluntary rehabilitation treatments during his or her length of employment with SRTD.

All testing in the voluntary rehabilitation program will be done under SRTD authority and only Non-DOT drug and alcohol testing forms will be used.

13.1 Use of Accrued Benefits While Undergoing a Treatment Program

Employees referred to the SAP and/or the rehabilitation program may use accrued sick leave and vacation, to provide an income during the period of leave. The accruals must be available for use during the calendar year in which the leave is requested. Employees having no accrued time available for use will be put on leave of absence without pay until returning to regular duty or separation from employment.

14.0 INCORPORATION OF NEW OR CHANGED REQUIREMENTS

Notwithstanding anything in this policy to the contrary, it will be construed to incorporate any changes required by any law, regulation or directive adopted, amended or issued after the effective date of its issuance. This will include applicable state and federal case law pertaining to drug and/or alcohol testing and rehabilitation programs for public employees performing safety sensitive functions.

15.0 ADOPTION AND RESTATEMENT OF THE POLICY

The SRTD Board of Directors adopted Resolution No. 11-01-____, on January 24, 2011 approving this Policy. All prior versions of this Policy have been repealed. The effective date of this revised Policy is January 24, 2011.

APPENDIX A

SAFETY SENSITIVE - NON-SAFETY SENSITIVE JOB CLASSIFICATION DESIGNATION

Safety Sensitive -

- I. The following SRTD Job Classifications have been deemed “safety sensitive” and are subject to this policy pursuant to 49 CFR Part 655.

A. IBEW Classifications

Bus Service Worker
Electronic Mechanic
Light Rail Assistant Mechanic
Light Rail Service Worker
Light Rail Vehicle Technician
Line Worker I/II/III
Mechanic A
Mechanic A Body and Fender
Mechanic A Gas and Propane
Mechanic B
Mechanic C
Painter
Rail Laborer
Rail Maintenance Worker
Senior Rail Maintenance Worker
Senior Mechanic
Upholsterer

B. Administrative Classifications

CBS Superintendent
Chief Operating Officer
Director, Community Bus Services
Director, Light Rail
Director, Transportation
Director, Bus Maintenance
Maintenance Superintendent (Bus/Light Rail/
Wayside)
Operations Training Administrator
Transportation Superintendent (Bus/Light Rail)
Vehicle & Equip Maintenance Specialist

C. ATU Classifications

CBS Operator
Coach Operator
Light Rail Vehicle Operator

D. AFSCME Classifications

CBS Dispatcher/Supervisor
Maintenance Supervisor (Bus/Light Rail/
Wayside)
Maintenance Trainer (Bus/Light Rail)
Operations Trainer
Transportation Supervisor

Non-Safety Sensitive -

II. Any SRTD adopted Job Classification not listed within the categories of A, B, C, or D above, have been deemed “non-safety sensitive” and are subject to the terms of this policy under the authority of the SRTD.

A. Administrative Classifications

All remaining administrative classifications not listed above are non-safety sensitive.

B. ATU 256 Classifications

All Clerical Classifications
Transit Officer

C. IBEW 1245 Classifications

Storekeeper
Facilities and Grounds Worker I/II
Facilities Maintenance Mechanic
Facilities Electronic Technician
Facilities Service Worker

D. AFSCME Classifications

All remaining AFSCME classifications not listed above are non-safety sensitive.
Transit Officer Supervisor

APPENDIX B

GLOSSARY OF TERMS

ACCIDENT: An occurrence associated with the operation of a vehicle (including operation of its disabled persons lift), if as a result --

- (1) An individual dies;
- (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident;
- (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle;
- (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from revenue service.

ADULTERATED SPECIMEN: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

ALCOHOL: The intoxicating agent in a beverage that includes alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

ALCOHOL CONCENTRATION: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by a breath test.

ALCOHOL USE: The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

BREATH ALCOHOL TECHNICIAN (BAT): The breath alcohol technician shall be trained to proficiency in the operation of the EBT s/he is using and in the alcohol testing procedures. "BAT's" are the only qualified personnel to administer the EBT test on employees.

CANCELED TEST: A test that has been declared invalid by a Medical Review Officer. It is neither a verified positive nor a verified negative test, and includes a specimen rejected for testing by a laboratory.

CHAIN OF CUSTODY: Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

COLLECTION SITE: A place designated by SRTD where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

CONTRACTOR: A person or organization that provides a service for a recipient, sub-recipient, employer, or operator consistent with a specific understanding or arrangement. The understanding

can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties.

COVERED EMPLOYEE: An employee who performs a safety-sensitive function, including an applicant or transferee who is being considered for hire into a safety-sensitive function, and ***other employees, applicants, or transferee that will not perform a safety-sensitive function but falls under the policy by authority of SRTD.***

DESIGNATED EMPLOYER REPRESENTATIVE (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from their covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer.

DILUTE SPECIMEN: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

DISABLING DAMAGE: Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusion: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions:
 - a) Damage that can be remedied temporarily at the scene of the accident without special tools or parts.
 - b) Tire disablement without other damage, even if no spare tire is available.
 - c) Headlamp or taillight damage.
 - d) Damage to turn signals, horn, or windshield wipers, which makes them inoperative.

DRUG METABOLITE: The specific substance produced when the human body metabolizes a given prohibited drug as it passes through the body and is excreted in urine.

EVIDENTIAL BREATH TESTING DEVICE (EBT): A device approved by the National Highway Traffic Safety Administration for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations. Approved devices are listed on the NHTSA conforming products list.

FEDERAL TRANSPORTATION ADMINISTRATION (FTA): An agency of the U.S. Department of Transportation.

FOLLOW-UP TEST: A test requested pursuant to and subsequent to a “verified positive test” or requested during or after a rehabilitation program of testing pursuant to the testing program prescribed by the Substance Abuse Professional (SAP).

INVALID RESULT: The result reported by an HHS certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

MEDICAL REVIEW OFFICER (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving and reviewing laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

NEGATIVE TEST RESULT: A drug test result for a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. A breath alcohol concentration (BAC) of less than 0.02 BAC is a negative test result.

NON-NEGATIVE TEST RESULT: Test result found to be adulterated, substituted, invalid, or positive for drug/drug metabolites. **A breath alcohol concentration of ≥ 0.02 to ≤ 0.04 .**

POSITIVE TEST RESULT: A drug test result verified for the presence of an identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test is a confirmed breath alcohol concentration (BAC) of 0.04.

PROHIBITED DRUGS: Marijuana, cocaine, opiates, amphetamines, or phencyclidine (PCP).

PROHIBITED SUBSTANCE: Shall be used synonymous to drug abuse and/or alcohol misuse and refers to the definition of the foregoing terms "Alcohol" and "Prohibited Drug."

POST ACCIDENT TEST: A test to detect prohibited substances administered to an employee, as soon as practicable following an accident.

PRE-EMPLOYMENT TEST: A test to detect prohibited substances given to: an applicant who is being considered for employment in a safety sensitive position; any employee in a non-safety classification who is to be promoted into a safety sensitive classification; or any safety sensitive employee returning to work after an absence from work exceeding ninety (90) days.

RANDOM TEST: A test to detect prohibited substances given periodically each year to a predetermined percentage of employees who perform safety sensitive functions and who are selected on a scientifically defensible random and unannounced basis.

REASONABLE SUSPICION TEST: A test to detect prohibited substances given to an employee who is observed by a trained supervisor or company official, exhibiting behavior that is characteristic to the use of a prohibited substance or misuse of alcohol.

RETURN-TO-DUTY TEST: A test to detect prohibited substances given to an employee prior to returning to duty for employees who previously tested positive or who have refused a required test.

SAFETY SENSITIVE FUNCTION: Any of the following duties:

- Operating a revenue service vehicle, including when not in revenue service;
- Operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License;
- Controlling dispatch or movement of a revenue service vehicle;
- Maintaining a revenue service vehicle or equipment used in revenue service;
- Carrying a firearm for security purposes; or
- Supervisors of employees performing the foregoing activities, provided they perform, or may be called upon to perform safety sensitive tasks.

SUBSTANCE ABUSE PROFESSIONAL (SAP): A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or the International Certification Reciprocity Consortium), with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

SUBSTITUTED SPECIMEN: A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

VERIFIED NEGATIVE (DRUG TEST RESULT): A test result reviewed by an MRO and determined to have no evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as amended. This term is synonymous with "negative test" or "passed test."

VERIFIED POSITIVE (DRUG TEST RESULT): A test result reviewed by an MRO and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as amended. This term is synonymous with "positive test" or "failed test."

APPENDIX C

Program Vendors and Qualifications

DHHS-CERTIFIED TESTING LABORATORY

Medtox
402 W County Rd
St. Paul, MN 55112

MEDICAL REVIEW OFFICER

University Services
10551 Decatur Road Suite 200
Philadelphia, PA 19154
(215) 637-6800
Ben Gerson, M.D.

SUBSTANCE ABUSE PROFESSIONAL

National Counseling Resource
11622 Fair Oaks Blvd #103
Fair Oaks, CA 95628
(916) 961-1010
1-800-607-1010
Duncan MacPherson, N.C.A.C. II, C.A.D.C.

URINE SPECIMEN COLLECTION AND BREATH ALCOHOL TESTING

Sacramento Occupational Medical Group

15 Business Park Way Ste 111
Sacramento, CA 95828
(916) 387-6929

1550 Harbor Boulevard Ste 110
West Sacramento, CA 95691
(916) 372-9893

Collection Plus (*After Hours*)
2129 Hacienda Way, Suite H
Sacramento, CA. 95825
(916) 487-3033

APPENDIX D

EFFECTS, SIGNS AND SYMPTOMS OF ALCOHOL MISUSE

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor of alcohol, these are general signs and symptoms of any depressant use.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer (12 oz.), whiskey (1 oz.), or wine (6 oz. glass) over time may result in the following health hazards.

- Fatal liver diseases
- Kidney diseases
- Ulcers
- Pancreatitis
- Decreased sexual functioning
- Birth defects (up to 54% of all birth defects are alcohol related)
- Dependency (Up to 10% of all people who drink alcohol become physically and/or mentally dependent and can be termed “alcoholic.”)
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma.

Social Issues

- People who drink prior to engaging in a crime, commit two thirds of all homicides.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two thirds of all Americans will be involved in an alcohol related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60% of burns, 40% of falls and 69% of boating accidents are alcohol related.

Workplace Issues

- It takes one hour for the average person (150 lbs.) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

APPENDIX E

CONFIDENTIALITY, RECORDS MANAGEMENT AND RELEASE OF TEST RESULTS

Employee information related to drug and/or alcohol test results is confidential and is handled in a manner to protect its sensitive nature. The Labor Relations Department is responsible for administering the Drug and Alcohol Testing Program and maintaining a system of retaining the required documentation in accordance with 49 CFR Part 655. All such information is maintained in a secure location with controlled access. Reports of drug and alcohol test results are given only to the Labor Relations staff assigned to support the office.

The Labor Relations staff may release information about an employee's test result only to the employee who was tested and to SRTD management, supervisory or administrative staff with a legitimate business need-to-know basis. Information will not be released to a person or persons outside the employ of Regional Transit unless a member of the Labor Relations Department is provided with a signed and dated "release" for the specific information desired. A signed release by employee is required anytime information of an employee's test result is requested by the employee, Union representatives, subsequent employers or any other third party.

Test results will be released without written consent only:

- To 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 (NTSB);
- When records are requested by the DOT or any other DOT agency with regulatory authority, including the State oversight agency authorized to oversee rail fixed guideway systems;
- When records are requested by State DOT or grantee that has oversight responsibility and is required to certify compliance to FTA.

A "Consent for Release" form can be obtained by contacting the Labor Relations Department by calling (916) 557-1053.

An employee has an unqualified right, upon written request, to review and receive a copy of his/her drug and alcohol testing records, provide information to dispute the results, and have access to any pertinent records related thereto, as consistent with DOT regulations. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

APPENDIX F

CONTACT PERSONS

For more information or questions about the policy or testing program, please contact a staff member in the Labor Relations Department at the telephone numbers listed below.

Dan Bailey Chief Administrative Officer/EEO	(916) 556-0441	dbailey@sacrt.com
Doug Miller Acting Director, Labor Relations	(916) 557-4530	dmiller@sacrt.com
Mariza Montung Labor Relations Analyst	(916) 557-4543	mmontung@sacrt.com
Lydia Thames Administrative Technician	(916) 557-1053	lthames@sacrt.com
