

## **STAFF REPORT**

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**DATE:** December 11, 2023  
**TO:** Sacramento Regional Transit Board of Directors  
**FROM:** David Topaz, VP, Employee Development and Engagement  
**SUBJ:** APPROVING REVISED SACRT DRUG AND ALCOHOL TESTING AND REHABILITATION POLICY

### RECOMMENDATION

Adopt the Attached Resolution.

### RESULT OF RECOMMENDED ACTION

Repealing Resolution No. 14-04-0028 and adopting Resolution No. 2023-12-116, approving the revised Sacramento Regional Transit District (SacRT) Drug and Alcohol Testing and Rehabilitation Policy (DAT Policy). Approving this Resolution will ensure SacRT implements a policy that is compliant with DOT FTA Regulations.

### FISCAL IMPACT

There is no fiscal impact.

### DISCUSSION

The Board last adopted the DAT Policy in April 2014 (Resolution No. 14-04-0028). The FTA performed a “courtesy review” of the existing policy in June 2022 and provided recommendations to avoid potential deficiencies, after which the Labor Relations Department began work on updating the policy and shared a draft of the document to all represented organizations for review on November 28, 2022.

On April 19-21, 2023, the draft policy was audited by the U.S. Department of Transportation Federal Transit Administration (DOT/FTA) and some additional areas were identified as needing correction to conform to new regulations.

In response to the courtesy review and audit, Staff revised the DAT Policy to conform to new regulations implemented after April 2014, and made other administrative revisions to clarify current practices. Some of the changes include:

- Added the exception to termination for “Refusals to Test” if the employee cooperated with the “3-Hour Shy Bladder Procedure” (Arbitration Settlement – July 11, 2014);
- Addition of synthetic opioids to the testing panel (Implemented January 2018);
- Added the procedure for Safety Concern Examinations;

- Clarified the rehabilitation process for employees that commit drug and/or alcohol policy violations.
- Clarified that the policy as it pertains to non-safety sensitive employees applies to off-site lunch periods and breaks when an employee is scheduled to return to work.

The policy serves to implement both SacRT's obligations under 49 C.F.R. Part 655 (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations) and the federal Drug-Free Workplace Act of 1988 and associated regulations (49 C.F.R. Part 32).

The proposed policy, after incorporation of the changes associated with the audit, was re-distributed to all labor organizations representing SacRT employees for review on October 3, 2023, to comply with SacRT's bargaining obligations.

The revised DAT Policy is attached to the Resolution as Exhibit A, and a comprehensive list summarizing the changes is also included as Attachment 1. Staff recommends approval of the revised DAT Policy. Upon approval, a Board adopted copy will be provided to all labor organizations representing SacRT employees and all current and newly hired employees, as required by 49 C.F.R. Sections 655.15 and 655.16.

## **DAT Policy Revisions Summary of Changes**

### **1.0 Policy**

- *Updated SacRT References throughout the Policy*
- *Updated grammar throughout the Policy*

### **2.0 Purpose**

- Added reference to FTA Drug and Alcohol Program Website
- Added reference to The Drug-Free Workplace Act of 1988

### **3.0 Application Of Policy**

- Changed the title to “Applicability”
- Added details concerning what constitutes a safety-sensitive function
- Policy is in effect during off-site lunches
- Added section for “On-Call Employees”

### **4.0 Prohibited Substances**

- Added details concerning prohibited substances
- Updated the term “Opiates” to “Opioids”
- Added details concerning alcohol misuse
- Added details concerning the process for securing a negative test result when legally taking prescription drugs

### **5.0 Prohibited Conduct**

- Moved the language contained previously in Section 8.0 (*Required Notification Of A Criminal Conviction*)
- Added clarification concerning prohibited drug use and alcohol misuse
- Added the District’s practice of placing employees on Paid Administrative Leave pending investigation and verification of a positive result
- Added a reference to the “Consequences Section” for non-negative alcohol test results

## **6.0 Education And Training**

- Added details concerning training

## **7.0 ~~Behavior Constituting A Refusal To Submit To Testing~~ Procedures For Drug And Alcohol Testing**

- Moved Section 11 to Section 7
- Updated the term “Opiates” to “Opioids”
- Added details concerning the procedures
- Moved the “Dilute Test Result Procedure” from Section 12 to Section 7
- Moved the “Split Specimen Procedure” from Section
- Created a section for “Split Specimen Test Procedure”
- Added details about the cost of split specimen testing being paid by the employee
- Added “Safety Concern Examination Procedures”

## **8.0 ~~Required Notification Of A Criminal Conviction~~ Behavior Constituting A Refusal To Submit To Testing**

- Moved Section 7 to Section 8
- Added clarifying language
- Moved the “Consequences for a Refusal” to Section 11

## **9.0 Circumstances Under Which An Employee Will Be Tested**

- Added the purpose for each testing type
- Added details concerning each testing type
- Added the “negative-dilute” retest procedure for each testing type that it applies
- Added details concerning what the DOT FTA background check entails
- Discontinued Pre-Employment Testing for employees that are off for 90 days or more
- Moved “Consequences For A Positive Pre-Employment Test” to Section 11
- Added details for when alcohol tests can be conducted for Reasonable Suspicion and Post-Accident Testing
- Added the District’s practice of placing employees on Paid Administrative Leave pending test results for applicable testing types
- Added reference to FTA Drug and Alcohol Program Website for random testing rates
- For Return-To-Duty Testing and Follow-Up Testing, added an employee can be terminated for a positive drug test, positive alcohol test, or a non-negative alcohol test result.

## **10.0 Conditions For An Observed Collection**

- Added clarifying language

## **11.0 ~~Procedures For Drug And Alcohol Testing~~ Non-Negative And/Or Positive Drug And Alcohol Test Results With Disciplinary Consequences**

- Moved Section 12 to Section 11
- Renamed section
- Moved Pre-Employment (New-Hire) positive consequences from Section 9
- Added clarifying language throughout section
- Outlined necessary steps external candidates must accomplish for consideration for future employment
- If SAP and Rehab Facility agree that more treatment is necessary, then employee can opt for more treatment at their cost (most insurances pay for the bulk of treatment)
- Employees can avail themselves of 1 Voluntary (or DUI) Rehabilitation Treatment and 1 Involuntary (positive test) Rehabilitation Treatment
- Refusals – Added exception to Termination if the employee cooperated with the 3-hour Shy Bladder Procedure. Instead, the employee will be able to go through the involuntary Rehabilitation Treatment Program
- Added 2 Day Suspension as a consequence for employees who has a second non-negative within 36 months.

## **12.0 ~~Drug And Alcohol Test Results And Consequences~~ Voluntary Rehabilitation Treatment**

- Moved Section 13 to Section 12
- Added clarifying language
- Referred to professional services of a “Counselor” instead of an “SAP” since this is a Non-DOT Program
- Such testing under this program is not observed
- Added the Employee Assistance Program (EAP) as a possible avenue for drug abuse and/or alcohol misuse assistance
- Added protocol for admissions of drug abuse and/or alcohol misuse
- Added reference to DUI Leave as a type of Voluntary Rehabilitation

## **13.0 ~~Voluntary Rehabilitation Treatment~~ Incorporation Of New Or Changed Requirements**

- Moved Section 14 to Section 13

#### **14.0 ~~Incorporation Of New Or Changed Requirements~~ Adoption And Reinstatement Of The Policy**

- This section will be updated when the Board adopts the Policy

#### **~~15.0 Adoption And Reinstatement Of The Policy~~**

### **Appendices**

#### **Appendix A – ~~Glossary Of Terms~~ Safety Sensitive & Non-Safety-Sensitive Job Classification Designations**

- Added classifications that were not referenced in the previous policy.
- Made certain Management Positions non-safety-sensitive so the pool will not continue to be diluted.

#### **Appendix B – Contact Persons**

- Moved from Appendix F to Appendix B
- Updated current Labor Relations contact information
- Added D.E.R. designations

RESOLUTION NO. 2023-12-116

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

December 11, 2023

**APPROVING REVISED SACRT DRUG AND ALCOHOL TESTING AND REHABILITATION POLICY**

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

THAT, Resolution No. 14-04-0028, adopted on April 14, 2014, is hereby repealed.

THAT, the Drug and Alcohol Testing and Rehabilitation Policy attached hereto as Exhibit A is hereby approved.

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PATRICK KENNEDY, Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Tabetha Smith, 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

**December 11, 2023**

RESOLUTION No. 2023-12-116

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PREVIOUS REVISIONS

- 14-04-0028 (04-14-2014)
- 11-01-0010 (01-24-2011)
- 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 (SacRT) is dedicated to providing safe, dependable, and economical transportation services to our transit system passengers. SacRT employees are our most valuable resource. It is SacRT's goal to provide a healthy and satisfying working environment that promotes personal opportunities for growth. In meeting these goals, it is SacRT's Policy to:

- a. Ensure 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 substances<sup>1</sup>;
- 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 at any time personal problems, including alcohol or drug dependency, adversely affects their ability to perform their assigned duties.

## 2.0 **PURPOSE**

The purpose of this policy is to ensure worker fitness for duty and to protect SacRT's employees, passengers, and the public from the risks posed by the use or misuse of alcohol and prohibited drugs. This policy strengthens and reaffirms our commitment by complying with all applicable federal regulations governing workplace drug prevention programs in the transit industry. SacRT conforms to the Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT) regulations at 49 CFR Part 655, as it may be amended after the date of this policy, that mandate drug testing and alcohol testing for transit employees working in safety-sensitive classifications to prevent performance of such functions by employees when there is a positive drug or alcohol test result. SacRT also complies with DOT regulations at 49 CFR Part 40, as it may be amended after the date of this policy, that sets standards for the collection and testing of urine and breath specimens. Copies of the regulations are available by contacting a SacRT Staff Member identified in Appendix J of this document, or on the FTA Drug and Alcohol Program Website at <http://transit-safety.fta.dot.gov/DrugAndAlcohol/>.

In addition, SacRT is committed to maintaining a drug and alcohol-free workplace in compliance with DOT Regulation (49 CFR Part 32), by implementing "The Drug-Free Workplace Act of 1988," and the "Omnibus Transportation Employee Testing Act of 1991." These statutes and implementing regulations require the promulgation of a Drug-Free Workplace Statement and the reporting of certain drug-related convictions to the FTA.

***The provisions contained in this policy that are implemented under SacRT's authority are identified by 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 and the FTA Master Agreement, which includes an obligation to comply with 2 CFR Part 182.***

## **3.0 APPLICABILITY**

### **3.1 SacRT's Safety-Sensitive Employees**

- a. This policy applies to all employees, including an applicant, transferee, or Contractor who performs (or will perform) safety-sensitive functions, as defined in Part 655, Section 655.4. Such persons are required to submit to drug and alcohol testing when they are on duty or subject to duty.
- b. A person is designated safety-sensitive if they perform any of the following duties:
  - i. Operating a revenue service vehicle, whether in or out of revenue service;
  - ii. Operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's License;
  - iii. Controlling movement or dispatch of a revenue service vehicle;
  - iv. Maintaining (including repairs, overhauls, and rebuilds) a revenue service vehicle or equipment used in revenue service;
  - v. Carrying a firearm for security purposes; or
  - vi. Supervisors of employees performing the foregoing activities provided they perform, or may be called upon to perform, safety-sensitive tasks.
- c. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work.
- d. SacRT has evaluated the actual duties performed by employees in all job classifications and determined which employees perform safety-sensitive functions. A list of identified safety-sensitive positions is included in Appendix B. All new job classifications will be assessed to determine if the new position is considered to be safety-sensitive.

### **3.2 SacRT's Non-Safety-Sensitive Employees**

- a. ***All SacRT non-safety-sensitive employees are required to submit to drug and alcohol testing under the following testing criteria:***
  - i. ***Reasonable Suspicion Testing – Occurs if there is reason to believe the employee may be under the influence of a prohibited substance;***
  - ii. ***Return-To-Duty and Follow-Up Testing – Occurs when the employee enters the Voluntary Rehabilitation Program under Section 12.***
- b. ***This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and temporary employees may be asked to leave SacRT property that is not open to the public if they appear impaired and will not be permitted to conduct SacRT related business.***
- c. ***SacRT's non-safety-sensitive job classifications are identified in Appendix B.***

### **3.3 On-Call Employees**

- a. SacRT shall prohibit the consumption of alcohol for the specified on-call hours of each covered employee who is on-call.
  - i. Covered employees will be given the opportunity to acknowledge the use of alcohol at the time they are called to report to duty and the inability to perform their safety-sensitive functions.
  - ii. If the covered employee has acknowledged the use of alcohol, but claims to have the ability to perform their safety-sensitive functions, then the employee will be required to take an alcohol test.
- b. ***Non-safety-sensitive employees that are in On-Call Standby status are also prohibited from consuming alcohol while on-call.***

## 4.0 PROHIBITED SUBSTANCES

Prohibited substances addressed by this policy are:

### 4.1 Controlled Substances or Illegal Drugs (Including Their Metabolites)

The use of any illegal drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 CFR 1300.11 through 1300.15, is prohibited at all times for safety-sensitive employees in the workplace unless a legal prescription has been written for the substance. **(Non-safety sensitive employees are prohibited from use that would impair the performance of their job functions).** This includes any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use also includes usage of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

The consumption of any of the following substances, is prohibited at all times for safety-sensitive employees. **(Non-safety sensitive employees are prohibited from use that would impair the performance of their job functions)** (see Section 5.2 below):

- a. Marijuana
- b. Amphetamines
- c. Opioids<sup>1</sup>
- d. Phencyclidine (PCP)
- e. Cocaine

### 4.2 Alcohol

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

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

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. A legally prescribed drug means that an

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1. The Opioids category includes the following drugs: hydrocodone, hydromorphone, oxycodone, oxymorphone, codeine, morphine, and 6-acetylmorphine.

individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. The misuse or abuse of legal drugs while performing SacRT business is prohibited. For DOT drug testing, if the MRO determines that an employee has a legitimate medical reason for the presence of a prohibited drug in their urine specimen, the MRO will report the test result as negative to SacRT. For further information, see 49 CFR 40.135(d).

***FTA Regulations do not mandate covered employees must report prescription and over-the-counter medication use. However, it is imperative that covered employees recognize that prescription medications and certain over-the-counter medications may affect their ability to perform their job duties. Each safety-sensitive employee must inform their physician about the type of job duties they perform and be aware of the effect drugs (over-the-counter or prescribed) may have on the performance of their job.***



## 5.0 PROHIBITED CONDUCT

### 5.1 Prohibited Manufacture, Trafficking, Possession, and Use of Drugs (Drug-Free Workplace Act of 1988)

***Pursuant to the Drug-Free Workplace Act of 1988, all transit system employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use a prohibited substance while on SacRT property, in SacRT vehicles, or while conducting SacRT business. This includes unlawfully assisting another person engaging in such conduct. An employee involved in any such conduct is subject to termination of employment and law enforcement will be notified, as appropriate.***

***Under the Drug-Free Workplace Act, all employees must notify SacRT of any criminal drug statute conviction for a violation occurring in the workplace, within 5 days of any conviction. Any employee who fails to notify SacRT of such a conviction will be subject to termination of employment. SacRT will notify FTA of any such employee criminal violation within 10 days of notification of the conviction.***

### 5.2 Prohibited Drug Use

***SacRT will place any employee who is reasonably suspected of being intoxicated or impaired on Paid Administrative Leave, pending an investigation and verification of such condition via a Drug Test.*** SacRT will remove employees who fail to pass a Drug Test from duty and the employee will be subject to the terms of this Policy concerning a positive test result and consequences for such actions (Section 11). Unless legally prescribed under Federal law, consumption of any of the substances listed in Section 4.1 above is prohibited at all times for safety-sensitive employees.

### 5.3 Prohibited Alcohol Use

***SacRT will place any employee who is reasonably suspected of being intoxicated or impaired on Paid Administrative Leave, pending an investigation and verification of such condition via an Alcohol Test.*** SacRT will remove employees who fail to pass an Alcohol Test from duty and the employee will be subject to the terms of this Policy concerning alcohol test results and consequences for such actions (Section 11).

All employees are prohibited from consuming alcohol while on safety-sensitive duty ***or while in uniform***. Safety-Sensitive employees must not use alcohol while performing safety-sensitive functions or within 4 hours of reporting to duty. Alcohol use is also prohibited 8 hours following an accident

that requires testing, or until the employee undergoes Post-Accident Testing, whichever comes first.

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 (**See Section 11.4 for consequences of a non-negative test result**). **The employee must pass a Non-DOT Alcohol Test to be returned to work.**

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

SacRT has established an education and training program for its employees that addresses the adverse effects of drugs and alcohol. All employees will receive such education and informational material, including a copy of this policy and ready access to the corresponding federal regulations, including 49 CFR Parts 655 and 40, as it may be amended after the date of the policy. In addition, employees will receive at least 60 minutes of training on the signs, symptoms, effects, and consequences of prohibited drug use on personal safety, health, and the work environment.

### 6.2 Supervisor

All supervisors or SacRT officials of safety-sensitive employees who are in a position to determine employee fitness for duty, will receive 2 hours of “Reasonable Suspicion Training” in addition to the above general training. Supervisory training will consist of at least 60 minutes of training on the physical, behavioral and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

***Supervisors or SacRT officials of non-safety-sensitive employees will receive the same Reasonable Suspicion Training in addition to the above general training.***

## 7.0 PROCEDURES FOR DRUG AND ALCOHOL TESTING

### 7.1 Drug Testing Procedures

Testing will be conducted in a manner that ensures 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 collection site will provide a privacy enclosure for urination, a toilet, a suitable clean writing surface, and a water source outside the private enclosure for hand washing. Access to each collection area will be restricted and either secured, or visually inspected before specimen collection. A blue dye will be used in each toilet and all other water sources will be inoperable or secured.

The drugs that will be tested for include marijuana, cocaine, opioids, 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 “SacRT Authority.”*** An initial drug screen will be conducted on the primary urine specimen. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the 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 concentrations are expressed in nanograms per milliliter (ng/mL):

Initial Test Analyte	Initial Test Cutoff Concentration <sup>1</sup>	Confirmatory Test Cutoff Concentration <sup>1</sup>
<b>Marijuana Metabolites</b>		
THCA <sup>2</sup>	50 ng/mL	15 ng/mL
<b>Cocaine Metabolites</b>		
Benzoylcegonine	150 ng/mL	100 ng/mL
<b>Phencyclidine (PCP)</b>	25 ng/mL	25 ng/mL
<b>Opioid Metabolites</b>		
Codeine/ Morphine <sup>3</sup>	2000 ng/mL	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	100 ng/mL
6-Acetylmorphine	10 ng/mL	10 ng/mL
<b>Amphetamines<sup>4</sup></b>		
Amphetamines (AMP)	500 ng/mL	250 ng/mL
Methamphetamines (MAMP) <sup>5</sup>	500 ng/mL	250 ng/mL <sup>6</sup>
MDMA <sup>7</sup>	500 ng/mL	250 ng/mL
MDA <sup>8</sup>	500 ng/mL	250 ng/mL

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). An 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, substituted, 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 and/or present a legitimate medical explanation for the positive test result.

1 These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances at other concentrations.

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

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

4 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.

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

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

7 Methylenedioxyamphetamine (MDMA).

8 Methylenedioxyamphetamine (MDA).

The MRO will subsequently review the employee's medical history and/or 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 SacRT's DER. The employee will be informed that they have 72 hours in which to request a test of the split specimen (See Section 7.1b. below). 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.

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 greater than or equal to 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 greater than or equal to 2 mg/dL but less than or equal to 5 mg/dl will require a retest under direct observation and applies to all testing.

The step-by-step drug testing procedure is outlined in Appendix E.

a. Dilute Test Result Procedure

- i. When SacRT is notified by the MRO that a drug test will be reported as positive dilute, then the test will be treated as a verified positive test. The employee will not be directed to provide another sample.
- ii. ***If a Pre-Employment, Return-To-Duty, or Follow-Up Drug Test Result is negative dilute (creatinine concentration greater than 5 mg/dL), then SacRT will conduct one additional retest. The result of the second collection will be the test result of record.***
- iii. If a Random, Post-Accident, or Reasonable Suspicion Test Result is negative dilute, SacRT will accept the test result and there will be no retest, unless the MRO directs the employer to perform a retest under direct observation (49 CFR Part 40, Section 40.67).
- iv. A drug test reported by the MRO as negative dilute with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL will be retested immediately under direct observation collection procedures. The result of the second collection will be the test result of record.

b. Split Specimen Test Procedure

- i. The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, then the split will be discarded. If the primary specimen is positive, then the split will be retained for testing in case it is requested by the employee through the MRO. If the specimens are positive, then they will be retained in frozen storage for one year.
- ii. Employees that question a verified positive drug test result, or a test refusal due to adulteration or substitution, may request that the split specimen be tested at a second laboratory with no affiliation with the original laboratory that analyzed the primary specimen (employees do not have access to a test of their split specimen following an invalid result). The employee's request must be made to the MRO within 72 hours of notice that the original sample was verified as positive. 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.
- iii. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended.
- iv. 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.
- v. If the split specimen is 1) Not able to be analyzed, or 2) The results are not reconfirmed, but the split specimen creatinine concentration was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL, or 3) The primary specimen had an invalid result that was reported to the DER, then the MRO will declare the original test to be cancelled and will direct SacRT to retest the employee under direct observation.
- vi. If an employee submits a specimen for testing that the MRO verifies has been adulterated or substituted, the employee will be considered to have refused the drug test and ***will be subject to termination from employment.***

vii. ***If the employee requests a split specimen, SacRT will request that the employee provide a signed Payroll Deduction Authorization Form, authorizing deduction of the split specimen testing cost if the test result is reconfirmed as positive.***

c. **Prescription Drug Use Safety Concern Examination Procedures**

***All safety-sensitive employees may be subject to an evaluation when the MRO has reason to believe that a prescription drug may be adversely affecting the employee's job performance.***

i. **Prescription Drug Use Safety Concern (First Result / Incident)**

- 1) ***After receiving an initial safety concern notice from the MRO that the documentation for current prescription medication use was not received from the physician within 5 days, the DER will contact the employee. From that point, the employee is responsible for communicating with their doctor and the MRO to ensure the correct paperwork is submitted to either validate or mitigate the MRO's concern.***
- 2) ***The employee will be given 10 business days from notification by the DER to have their doctor respond to the safety concern. During this time, the employee will be permitted to continue to work.***
  - ***Follow-Up Program participants will be removed from safety-sensitive duty and placed on Paid Administrative Leave during the 10 business days referenced above.***
- 3) ***If the MRO does not receive an appropriate response within 10 business days, the employee will be removed from safety-sensitive duty and placed on a Leave of Absence. The employee must use any available leave balances until it is determined by the MRO that either:***
  - ***The medication use has been discontinued; or***
  - ***The employee can safely work while taking the medication.***

***Any time off not covered by leave balances will be unpaid.***



- 4) ***Any employee asserting that their doctor will not fill out the MRO's required paperwork must provide a substantiating doctor's note. When the doctor's note is received by SacRT, the employee will be placed on Paid Administrative Leave and the protocol below will be followed (referral to a doctor paid by SacRT).***
  - 5) ***The employee is required to keep the DER apprised of their progress in resolving the matter, as reasonably necessary. If the DER determines the employee is making a reasonable effort to have the paperwork submitted by their doctor, then the time frame for responding to the safety concern may be extended, at the DER's discretion.***
  - 6) ***If after the employee's physician responds to the initial safety concern notice, the MRO is unable to confirm that the prescribing physician authorizes the performance of covered duties given the donor's current medication usage, then the employee will immediately be placed on Paid Administrative Leave and referred to a doctor paid by SacRT (see process below).***
- ii. ***Prescription Drug Use Safety Concern (Second Result / Incident or Doctor Unwilling to Comply with Validation Requirements)***
- 1) ***After receiving a second safety concern notice within 1 year from the MRO (or if the employee's doctor is unwilling to validate prescription usage for the first prescription drug safety concern), the employee will be relieved of safety-sensitive duty and placed on Paid Administrative Leave.***
  - 2) ***SacRT will set up an appointment with a qualified doctor and pay for all costs associated with the safety concern examination. The doctor will determine if:***
    - ***The employee can safely perform safety-sensitive duties at the levels prescribed; or***
    - ***The medication causes a safety concern that requires the employee to discontinue use.***
- The employee must comply with all requirements outlined by the doctor in order to be permitted to return to safety-sensitive duty.***

- 3) ***If the employee is unwilling to comply with the doctor's requirements and no further evaluation of the matter is deemed necessary by the appropriate medical professionals, then the employee will be taken off of Paid Administrative Leave and the matter will be referred to the Human Resources Department for further assessment as an ADA Accommodation Request.***
- 4) ***During the duration of this process, the employee is required to respond in a timely manner to the DER, MRO, and doctor when questions arise. Noncompliance will jeopardize the employee's Paid Administrative Leave status and result in discipline, up to and including termination from employment.***

## **7.2 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, ingested medicinally, or other by another method of 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 SacRT authority.*** The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. To protect the security of the testing site and process, the breath alcohol testing location must afford privacy, not permit unauthorized persons access, and the EBT must be stored in a secure location. This procedure will protect the employee, maintain the integrity of the alcohol testing procedures, and ensure a valid test result.

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 15 minutes after the completion of the initial test. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The

consequences of a positive alcohol test are described in Section 11 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 8 hours or for the duration of the workday, whichever is longer. An alcohol concentration of less than 0.02 will be considered a negative test result.

The step-by-step alcohol testing procedure is outlined in Appendix F.

## **8.0 BEHAVIOR CONSTITUTING A REFUSAL TO SUBMIT TO TESTING**

### **8.1 Drug Testing Refusals**

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 SacRT, after being directed to do so;
- b. Failure or declining to take a second drug test as directed by SacRT 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 manner that disrupts the collection process);
- d. Failure to follow the observer's instructions to raise and lower clothing and turn around during a directly observed collection;
- e. Possess or wear a prosthetic or other device that could be used to tamper 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 until the testing process is complete (For Pre-Employment Testing, the testing process does not begin until the donor accepts the specimen collection cup for the drug test.);
- h. Failure to remain at the scene of an accident and readily available prior to submission to a drug test without a legitimate explanation;
- i. Failure to provide a sufficient quantity of urine when directed, and when it is determined through a required medical evaluation that there is no adequate medical explanation for the failure;
- j. In the case of a directly observed or monitored urine drug collection, any failure to permit monitoring or observation of delivery of the specimen, as required;
- k. Failure to undergo a medical evaluation as required by the MRO as part of the verification process or by SacRT's DER;

- l. If verified by the MRO having falsified test results by tampering, adulterating, or substituting specimen;
- m. Failure to attempt to provide a urine specimen for any required drug test.

## **8.2 Alcohol Testing Refusal**

Refusal to submit to an alcohol test includes any of the following acts or omissions:

- a. Failure to appear for any test within a reasonable time, as determined by SacRT, after being directed to do so;
- b. Failure or declining to take a second alcohol test as directed by SacRT or the Collector;
- c. Failure to cooperate with any part of the testing process (e.g., behaving in a confrontational way that disrupts the collection process);
- d. Failure to remain at the testing site until the testing process is complete;
- e. Failure to remain at the scene of an accident and readily available prior to submission to an alcohol test without a legitimate explanation;
- f. Failure to provide a sufficient breath specimen, and the physician has determined through a required medical evaluation that there is no adequate medical explanation for the failure;
- g. Failure to undergo a medical evaluation as required by the DER as part of the verification process;
- h. Failure or refusal to sign the certification as required at step 2 of the Alcohol Testing Form (ATF).

## 9.0 CIRCUMSTANCES UNDER WHICH AN EMPLOYEE WILL BE TESTED

### 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. Purpose: The purpose of Pre-Employment Drug Testing is to identify current drug use problems of applicants or employees who may seek to apply and/or transfer from a non-safety-sensitive position to a safety-sensitive position. As part of the employment process, SacRT follows the investigative process as outlined in 49 CFR 40.25.
- b. 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.
  - i. All offers of employment for covered positions shall be extended conditionally upon the applicant passing a drug test. An applicant shall not be hired into a safety-sensitive position nor perform any safety-sensitive duties unless the applicant takes a drug test with a verified negative result.
  - ii. If a Pre-Employment Drug Test is deemed “cancelled” or “invalid,” the individual will be required to undergo another test to fulfill this requirement prior to starting a safety-sensitive position.
  - iii. ***If the test result is negative dilute, SacRT will conduct one additional retest. The second test will be the recorded test and the result will be the test of record (see Section 7.1a.).***
  - iv. If more than 90 days have elapsed between the time of successfully completing a Pre-Employment Drug Test and the assignment of safety-sensitive duties, another Pre-Employment Test will be required.
  - v. SacRT investigates the Drug and Alcohol Testing records of all applicants for safety-sensitive positions. To be considered for employment, all applicants for employment in a safety-sensitive classification must provide SacRT with written consent to conduct a background check of their previous DOT Covered Employers over the past 2 years, as defined by 49 CFR 40.25. Information requested includes:

- 1) Alcohol test results of 0.04 or higher alcohol concentration;
  - 2) Verified positive drug tests;
  - 3) Refusals to be tested (including verified adulterated or substituted drug test results);
  - 4) Other violations of DOT Agency Drug and Alcohol Testing Regulations;
  - 5) Information obtained from previous employers of a drug and/or alcohol rule violation;
  - 6) With respect to any applicant who violated a DOT Drug and/or Alcohol Regulation, documentation of the employee's successful completion of DOT Return-To-Duty Requirements (including completion of a Follow-Up Testing Program).
- vi. When an applicant has previously failed or refused a Pre-Employment Drug Test, the applicant must provide SacRT proof of having successfully completed a referral, evaluation, and treatment plan as described in Part 655, Section 655.41(a)(2), **including completion of a Follow-Up Testing Program.**
- vii. **Failure to provide consent to such background checks will disqualify the applicant from further considerations for employment.**
- c. Extended Absences: When a safety-sensitive employee is on an extended leave for a period of 90 or more consecutive calendar days, regardless of the reason, and has been taken out of the Random Selection Testing Pool, the employee will be required to take a Pre-Employment Drug Test and obtain a verified negative result before returning to safety-sensitive duties. **The employee will remain on leave until a verified negative result is received.**

## 9.2 Reasonable Suspicion Testing

**(This section of the policy applies to all employees, including non-safety-sensitive and safety-sensitive employees.)**

- a. Purpose: The purpose of Reasonable Suspicion Testing is to provide a method to identify drug and/or alcohol affected employees who may pose a danger to themselves and others in the performance of their job functions (both safety-sensitive **and non-safety-sensitive** employees).

- b. A drug and/or alcohol test will be conducted when there is reason to believe an employee may have used illegal drugs or misused alcohol as defined in Sections 4.1 and 4.2, above. A Reasonable Suspicion Referral for testing will be made by a trained supervisor or other trained SacRT official on the basis of documented, specific, contemporaneous, and articulable observations concerning the appearance, behavior, speech, or body odors of the employee. Only 1 trained supervisor or SacRT official is required to make the determination. The testing process cannot be delayed in order to obtain a second opinion to confirm findings.
- c. A referral for drug testing for a reasonable suspicion can be conducted anytime the employee is on duty.
- d. A referral for alcohol testing for Reasonable Suspicion can be conducted for safety-sensitive employees only if the observations are made during, just preceding, or immediately following the performance of safety-sensitive duties. Alcohol tests must be performed within 8 hours of the observation. SacRT will attempt to complete the Reasonable Suspicion Alcohol Test within 2 hours following the observation(s). 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 observation(s), after which attempts to complete the alcohol test will cease. ***For non-safety-sensitive employees, a Reasonable Suspicion Referral may be made under the circumstances set out in paragraph b. any time the employee is on-duty.***
- e. The employee will be informed of the reason for testing and transported to the Collection Facility immediately after the supervisor completes valid documentation.
- f. ***If an employee is required to submit to a Reasonable Suspicion Test based on qualified observations, then the employee will be placed on Paid Administrative Leave until a verified negative or positive result is received from the MRO.***

### 9.3 **Post-Accident Testing**

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

- a. Purpose: The FTA regulations require Drug and Alcohol Testing in the case of certain public transit accidents.
- b. 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:



- i. An individual dies; or
  - ii. An individual suffers bodily injury requiring immediate medical treatment away from the scene. The individual can be transported by any means; or
  - iii. With respect to an occurrence in which the public transit vehicle involved is a bus, electric bus, van, or automobile, 1 or more vehicles (including Non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and must be transported away from the scene by a tow truck or other vehicle. Disabling damage occurs when a vehicle cannot be easily repaired at the scene of the accident and cannot proceed under its own power without causing further damage.; or
  - iv. With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, or trolley bus the vehicle is removed from operation. “Disabling damage” is not applicable for such vehicles, therefore, no tow is required.
- c. Post-Accident Drug and Alcohol Testing will occur under the following circumstances:
- i. Fatal Accident: A fatality is defined as any individual that dies at the scene of an accident and the death is associated with the occurrence. As soon as practicable following an accident involving the loss of a human life, drug and alcohol testing will be conducted on each surviving covered employee operating the transit vehicle at the time of the accident. Further, any other covered employee whose performance could have contributed to the accident, as determined by SacRT using the best information available at the time of the decision, shall also be required to submit to a drug and alcohol test.
  - ii. Non-Fatal Accident: As soon as practicable following an accident not involving the loss of human life in which a public transportation vehicle is involved, the employee operating the transit vehicle at the time of the accident shall submit to a drug and alcohol test unless SacRT 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, dispatch personnel, etc.) whose performance could have contributed to the accident, as determined by SacRT, will be required to submit to a drug and alcohol test.

- d. Testing Guidelines: Post-Accident Drug and Alcohol Tests will be performed as soon as possible. Drug tests will be performed within 32 hours following the accident. Alcohol tests will be performed within 8 hours. An employee involved in an accident is prohibited from consuming alcohol for 8 hours following the accident or until they undergo a Post-Accident Alcohol Test. SacRT will attempt to complete the 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 noted on the form and submitted to the DER.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured employee following an accident, nor prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance and/or necessary emergency medical care.

- e. Post-Accident Testing Availability: A SacRT employee involved in an accident who fails to remain readily available for the drug and alcohol testing, including keeping SacRT officials notified of their 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.
- f. SacRT may use the Post-Accident Results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by the Federal, State, or local officials having independent authority for the test, provided it conforms to applicable Federal, State, or local testing requirements, and that the test results are obtained by SacRT. Such test results may be used only when SacRT is unable to perform a Post-Accident Test within the required period noted in 49 CFR Part 655.44 (a) and (b).
- g. ***Any event that necessitates the performance of a Post-Accident Test will result in the employee being placed on Paid Administrative Leave until a verified negative or positive result is received from the MRO.***

#### 9.4 **Random Testing**

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

- a. **Purpose:** The purpose of Random Testing is to serve as a strong deterrent to prevent employees from beginning or continuing drug use or alcohol misuse. This assists with protecting the safety of the public, coworkers, and the employees.
- b. All safety-sensitive employees will be placed in the Random Testing Pool and subject to unannounced and unpredictable drug and alcohol testing. The random selection procedure shall be implemented using a scientifically valid method (Simple Random Sampling) that ensures each safety-sensitive employee will have an equal chance of being selected each time selections are made. Employees will remain in the pool and subject to selection whether or not the employee has been previously tested. Through the use of a computer based random number generation program, employees are selected on a monthly basis for testing. There is no discretion on the part of Management in the selection and notification of the individuals who are selected for testing.
- c. The number of employees selected will be spread reasonably throughout the calendar year in accordance with the federally required testing rates established on an annual basis. Random Testing will be conducted at all times of the day during which transit service or maintenance of vehicles and equipment is in operation throughout the calendar year. The current year testing rates can be viewed online at <http://www.transportation.gov/odapc/random-testing-rates>.
- d. An employee who is randomly selected and informed of the need to test must immediately cease performing their safety-sensitive functions to be transported for testing. Random Testing for alcohol will 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**

*(This section of the policy applies to all employees, including non-safety-sensitive and safety-sensitive employees.)*

- a. **Purpose:** 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 or **completion of the Voluntary Rehabilitation Program under Section 12**. An employee is not permitted to “return-to-duty” until the following actions have been taken:

- i. Employee has been evaluated by a Substance Abuse Professional (SAP) (**or Counselor**) who is qualified in accordance with 49 CFR Part 40 Subpart O.
  - ii. Employee has adhered to the course of treatment as prescribed by the SAP (**or Counselor**).
  - iii. Employee has submitted to a Return-To-Duty urine drug test and/or breath alcohol test (as determined by the SAP **or Counselor**) and SacRT is in receipt of a negative result(s).
- b. A DOT Return-To-Duty test will be conducted under direct observation. See Section 10.0g. for a description of direct observation collection procedures. **Employees completing a Return-To-Duty test as part of the Voluntary Rehabilitation Program, will not be subject to an observed collection.**
  - c. **If the drug test result is negative dilute, SacRT will conduct one additional retest. The second test will be the recorded test and the result will be the test of record (see Section 7.1a.).**
  - d. **If the drug test result is confirmed positive by the Medical Review Officer (MRO), the alcohol result is confirmed non-negative (0.02-0.039), or positive (over 0.04), then the employee will be terminated from employment.**

## 9.6 Follow-Up Testing

**(This section of the policy applies to all employees, including non-safety-sensitive and safety-sensitive employees.)**

- a. Purpose: Upon completing the Return-To-Duty process and returning to safety-sensitive functions, an employee will be required to undergo unannounced Follow-Up Drug and/or Alcohol Testing, according to FTA Regulations. This is done as a deterrent and to detect a relapse.
- b. Follow-Up 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 (**or Counselor**). However, the testing period can last anywhere from 1 to 5 years in duration, as directed by the SAP (**or Counselor**). **If the drug test result is confirmed positive by**

***the Medical Review Officer (MRO), the alcohol result is confirmed non-negative (0.02-0.039), or positive (over 0.04) on such a test, then the employee will be terminated from employment and referred to an SAP for evaluation at their own expense (DOT positive tests only).***

- c. Follow-Up Testing for alcohol will occur during, just before, or just after the employee's performance of a safety-sensitive function.
- d. A Follow-Up Test that has been determined by the MRO as "cancelled" is not considered a completed Follow-Up Test and must be recollected.
- e. Follow-Up Drug Testing under DOT authority will be conducted using the direct observation collection procedures. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O. ***Employees completing a Follow-Up Drug Test as part of the Voluntary Rehabilitation Program, will not be subject to an observed collection.***
- f. ***If the test result is negative dilute, SacRT will conduct one additional retest. The second test will be the recorded test and the result will be the test of record (see Section 7.1a.).***

## 10.0 CONDITIONS FOR AN OBSERVED COLLECTION

Consistent with the requirements of 49 CFR Section 40.67, an immediate urine specimen collection under direct observation with no advance notice will be conducted if any of the following situations occur:

- a. The individual presents a urine sample that falls outside the accepted temperature range (90° – 100°F).
- b. The collection site personnel observe materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with, substitute or adulterate the sample (e.g., substitutes urine in plain view, blue dye in specimen presented, etc.)
- c. The MRO reports to the DER that there was no adequate medical explanation for a specimen reported as invalid.
- d. The MRO reports to the DER that the original positive, adulterated, or substituted test result had to be cancelled because the split specimen is unavailable to confirm the result.
- e. The MRO directs the DER to conduct a second specimen collection because the creatinine concentrations are equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL.
- f. Testing conducted pursuant to Return-To-Duty or Follow-Up Testing.
- g. Observation Procedure: During an observed collection, the employee who is being observed will be required to raise their shirt, blouse, or dress/skirt, as appropriate, above the waist, and lower clothing and underpants to show the Collector, by turning around, that they do not have a prosthetic device. The 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 NON-NEGATIVE AND/OR POSITIVE DRUG AND ALCOHOL TEST RESULTS WITH DISCIPLINARY CONSEQUENCES**

### **11.1 Positive Pre-Employment Test Results**

#### **a. External Applicant**

- i. If an applicant refuses to take a Pre-Employment Drug Test, or tests positive for a prohibited substance, then the conditional offer of employment shall be rescinded. ***Failure of such a test will disqualify an applicant from employment for any position with SacRT for a period of at least 1 year. At the expiration of this period,*** if reapplying for a safety-sensitive position, the applicant will also need to provide evidence of the following (no matter the length of time):
  - 1) Evidence of the absence of drug dependency from a Substance Abuse Professional (SAP) that meets the qualifications outlined in 49 CFR Part 40, as amended.
  - 2) Proof of having successfully completed a referral, evaluation, and treatment plan under an SAP in accordance with the requirements outlined above (including proof of satisfying Follow-Up Testing Program Requirements).
  - 3) A negative Pre-Employment Drug Test Result, as required.
- ii. The applicant will be solely responsible for the cost of compliance with these terms and any subsequent treatment.

#### **b. Internal Applicant**

- i. When an employee being placed, transferred, or promoted from a non-safety sensitive position to a safety-sensitive position submits to a drug test with a verified refusal or positive result, the employee will be subject to the same provisions as stated in Section 11.1a. above.

### **11.2 Other Positive Test Results**

***(The consequences outlined in this section of the policy apply to the following testing categories: Reasonable Suspicion, Post-Accident, and Random. Nothing in this section precludes SacRT from administering a higher level of discipline if the circumstances warrant such action.)***

After receiving notice of a verified positive drug test result, a positive alcohol test result  $\geq 0.04$ , or a test refusal, SacRT's DER (or designee) will contact the employee's supervisor to have the employee removed from safety-sensitive duty, **or relieved from work for a non-safety-sensitive employee**. SacRT's DER (or designee) will meet with the employee and set up an appointment for the employee to meet with the SAP (**or Counselor**). The SAP (**or Counselor**) will evaluate the employee to determine what assistance is needed to resolve the 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 will include:

- a. Mandatory referral to SAP (**or Counselor**) for assessment, formulation of a treatment plan, and execution of a Return-To-Work Agreement.
  - i. **SacRT will pay for all costs associated with a Rehabilitation Program, not to exceed the amount of time specified by the SAP (or Counselor) in their Initial Evaluation & Recommendation.**
    - 1) **If the SAP (or Counselor) recommends the employee attend treatment that is covered by their respective health insurance plan (excluding high deductible health plans), and a copay is required at the time of treatment, then the employee may provide receipts to SacRT for reimbursement of any associated costs.**
  - ii. **If the employee is not able to be rehabilitated within the period specified by the SAP (or Counselor), then the following may be applicable:**
    - 1) **The SAP (or Counselor) will reevaluate the employee and make an assessment as to whether to extend more treatment options to the employee.**
    - 2) **If subsequent treatment is recommended, then it is the employee's option to agree to such treatment, at their expense.**
    - 3) **The employee will be solely responsible for further treatment costs. SacRT will not be obligated to pay further costs. (Healthcare Providers may cover the fees for additional treatment. Copays will be the responsibility of the employee).**



- 4) ***The program must comply with the SAP's (or Counselor's) requirements, otherwise, the treatment program will not be accepted.***
  - 5) ***If the employee completes the program recommended in the SAP (or Counselor) Initial Evaluation & Recommendation, and is:***
    - ***Not deemed to be ready to engage in safety-sensitive duties; and either***
    - ***The SAP (or Counselor) determines that more treatment will not successfully rehabilitate the employee at this time; or***
    - ***The employee chooses not to pay for subsequent treatment costs, then the employee will be subject to termination from employment.***
- iii. ***Employees referred to the SAP (or Counselor) and Rehabilitation Program (if applicable) 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 a leave of absence without pay until returning to regular duty or separation from employment.***
- b. ***Failure to execute or remain compliant with the Return-To-Work Agreement will result in termination from employment.***
    - i. Compliance with the Return-To-Work Agreement means that the employee has submitted to a drug and/or alcohol test immediately prior to returning to work; the result of those tests are negative; in the judgement of the SAP (***or Counselor***), the employee is cooperating with their recommended treatment program; and the employee has agreed to periodic unannounced Follow-Up Testing.
  - c. ***Refusal to submit to periodic unannounced Follow-Up Drug and/or Alcohol Tests is considered a direct act of insubordination and will result in termination from employment.***
  - d. ***An employee subject to an unannounced drug and/or alcohol test that results in a non-negative result, or a verified positive result will be terminated from employment.***
  - e. ***A second verified positive test (for any reason) will result in termination from employment. An employee is afforded a maximum of 1 involuntary treatment pursuant to Section 11.2, due to a positive drug and/or alcohol test, and 1 voluntary treatment***

*pursuant to Section 12.0, during their length of employment with SacRT.* The employee will be issued a listing of readily available SAPs per 49 CFR Part 40, Section 40.287, if the positive occurs due to a DOT regulated drug and/or alcohol Test.

### **11.3 Consequences of a Refusal to Submit to a Required Drug and/or Alcohol Test**

An employee refusing to submit to a drug and/or alcohol test or who exhibits a behavior considered a 'Refusal' as specified in Section 8.0 above, will be:

- a. Removed from their safety-sensitive function, ***or relieved from work for a non-safety-sensitive employee.***
- b. ***Subject to termination (see exception below).***
  - i. ***In cases where an employee has failed to provide an adequate amount of urine when directed and cooperated with the Collector by adhering to the 3-hour Shy Bladder Procedures, but the MRO has determined there is no medical explanation for the failure to provide such specimen, the employee will be referred to the SAP for evaluation at SacRT's expense. This specific type of "refusal" will be treated as a positive test result; however, the employee will not be subject to termination if there are no prior positive test results or previous failures to provide an adequate urine specimen without a medical explanation. Where the exception applies, the employee will be subject to Section 11.2 of this policy. However, if the employee continues to produce an insufficient sample without a medical explanation or obtains a subsequent positive test result for a prohibited substance, it will be grounds for termination.***
- c. Provided with a list of Substance Abuse Professionals (SAPs). SacRT will not be responsible for any costs associated with the chosen treatment program.

### **11.4 Non-Negative Alcohol Test Result**

- a. An alcohol test result of  $\geq 0.02$  to  $< 0.04$  BAC shall result in the immediate removal of the employee from safety-sensitive duty, ***or relief from work for a non-safety-sensitive employee,*** for at least 8 hours or the remainder of the workday, whichever is longer.
- b. ***Prior to returning to duty, the employee must be retested for alcohol. The test result must be less than 0.02 BAC.***

- c. ***A Written Reprimand will be administered as disciplinary action.***
- d. ***If the employee has another alcohol test result of  $\geq 0.02$  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 rehabilitation under the Voluntary Rehabilitation section of this policy.***

## **12.0 VOLUNTARY REHABILITATION TREATMENT & DUI LEAVE**

### **12.1 SacRT Voluntary Rehabilitation Treatment Program**

- a. ***Any employee who feels they may have a problem with drugs and/or alcohol may voluntarily request admission to SacRT's Rehabilitation Program. Requests must be referred to the DER (or designee) for review and referral. To be eligible for admission:***
  - i. ***An employee must request treatment before they are directed to submit to a drug and/or alcohol test for Reasonable Suspicion, Random, Pre-Employment, or Post-Accident Testing; and***
  - ii. ***The Employee must not have previously refused a drug and/or alcohol test; and***
  - iii. ***The employee cannot be charged with an offense for which the proposed discipline is termination unless the action is not imposed or reversed.***
  - iv. ***The employee must be compliant with all treatment recommendations of the Counselor.***
- b. ***Program costs will be paid by SacRT. An employee who is admitted to a Rehabilitation Program and thereafter fails to attend or complete the program will be terminated.***
- c. ***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 affect their job performance.***
- d. ***An employee completing a Rehabilitation Program must pass a Return-To-Duty Drug and/or Alcohol Test (Non-DOT) and will be subject to a number of Follow-Up Tests, as determined by the Substance Abuse Counselor.***
- e. ***A verified positive Return-To-Duty or Follow-Up Test while completing this program will result in termination from employment. An employee is afforded a maximum of 1 involuntary treatment pursuant to Section 11.2, due to a positive drug and/or alcohol test, and 1 voluntary treatment pursuant to Section 12.0, during their length of employment with SacRT.***

- f. ***All testing in the Voluntary Rehabilitation Program will be done under SacRT authority and only Non-DOT Drug and Alcohol Testing Forms will be utilized. Therefore, such drug tests will not be observed.***
- g. ***Employees referred to the Substance Abuse Counselor and Rehabilitation Program (if applicable) 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 a leave of absence without pay until they return to regular duty or separation from employment.***
- h. ***A self-referral that was not precipitated by a positive test result does not constitute a violation of the federal regulations and will not be considered a positive test result in relation to the progressive discipline defined in Section 11 of this policy. Also, such a referral does not shield an employee from the requirement to comply with all drug and/or alcohol testing provisions outlined in this policy.***

#### **12.2 Employee Assistance Program (EAP) Substance Abuse Services**

***SacRT's Employee Assistance Program (EAP) offers help for employees to improve or maintain their job performance by solving personal problems. A component of that program is helping employees that have personal problems related to addiction (drug use and/or alcohol misuse). Employees may choose to contact the EAP Provider to connect with a specialist trained specifically in substance abuse disorders. For more information, employees can contact the Human Resources Department.***

#### **12.3 Admission of Drug and/or Alcohol Misuse**

***When there are no specific, contemporaneous, articulable objective facts that indicate current drug and/or alcohol use, but the employee (who has not participated in the SacRT Rehabilitation Program), admits the abuse of alcohol or other substances to a supervisor in their chain of command, the employee will be referred to the Labor Relations Department for further assessment.***

**12.4 DUI Leave (Voluntary Rehabilitation Treatment)**

- a. ***When a safety-sensitive employee receives a DUI conviction off duty, then treatment and consequences will be handled in accordance with the provisions outlined in the Collective Bargaining Agreement applicable for said employee.***
  
- b. ***An employee will be afforded DUI Leave under their Collective Bargaining Agreement a maximum of 1 time during their length of employment with SacRT. This leave is equivalent to and counts as their 1 Voluntary Rehabilitation Treatment.***

### **13.0 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.***

#### **14.0 ADOPTION AND RESTATEMENT OF THE POLICY**

The SacRT Board of Directors adopted Resolution No. 2023-12-116, on December 11, 2023, approving this policy. All prior versions of this policy have been repealed. The effective date of this revised policy is December 11, 2023.



## APPENDIX A

# SAFETY-SENSITIVE & NON-SAFETY-SENSITIVE JOB CLASSIFICATION DESIGNATIONS

### I. Safety-Sensitive

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

#### A. AFSCME Classifications

Community Bus Services Dispatcher  
Maintenance Supervisor – Bus  
Maintenance Supervisor – Light Rail  
Maintenance Supervisor – Paratransit  
Maintenance Supervisor – Wayside  
Maintenance Trainer – Bus  
Maintenance Trainer – Light Rail  
Maintenance Trainer – Wayside  
Operations Training Specialist  
Transportation Supervisor

#### B. ATU Classifications

Bus Operator  
Bus Operator – Elk Grove  
Bus Operator (Part-Time) – Elk Grove  
Community Bus Services Operator  
Dispatcher – Elk Grove  
Light Rail Operator  
Paratransit Dispatcher  
Paratransit Operator  
Paratransit Operator / Trainer

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#### C. IBEW Classifications

Bus Service Worker  
Electronic Mechanic  
Elk Grove Bus Service Worker  
Elk Grove Mechanic A  
Elk Grove Mechanic B  
Elk Grove Mechanic C  
Journey Lineworker  
Light Rail Assistant Mechanic  
Light Rail Service Worker  
Light Rail Vehicle Technician  
Lineworker  
Lineworker Technician  
Mechanic A  
Mechanic A – Body / Fender

Mechanic A – Gasoline / Propane  
Mechanic B  
Mechanic C  
Painter  
Paratransit Mechanic A  
Paratransit Mechanic B  
Paratransit Mechanic C  
Paratransit Service Worker  
Rail Laborer  
Rail Maintenance Worker  
Senior Mechanic  
Senior Rail Maintenance Worker  
Upholsterer

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#### D. MCEG Classifications

Assistant Paratransit Operations Manager  
Maintenance Superintendent – Bus  
Maintenance Superintendent – Light Rail  
Maintenance Superintendent – Wayside

Paratransit Operations Manager  
Transportation Superintendent – Bus  
Transportation Superintendent – Light Rail

\*The Appendix will be updated as necessary, without SacRT Board Approval.

## II. Non-Safety-Sensitive Classifications

Any SacRT adopted Job Classification not listed within the categories of A, B, C, or D above, has been deemed non-safety-sensitive and is subject to the terms of this policy under the authority of SacRT.

A. AEA (OE3) Classifications

All AEA (OE3) Classifications

B. AFSCME Classifications

All remaining AFSCME Classifications not listed above

C. ATU 256 Classifications

All Clerical Classifications  
Lead Transit Ambassador  
Transit Ambassador  
Transit Fare Inspector

D. IBEW 1245 Classifications

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

E. MCEG Classifications

All remaining MCEG classifications not listed above

\*The Appendix will be updated as necessary, without SacRT Board Approval.

## APPENDIX B

# 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.

David Topaz VP, Employee Development & Engagement	(916) 261-4429	<a href="mailto:dtopaz@sacrt.com">dtopaz@sacrt.com</a>
Mark Salvo (D.E.R.) Senior Manager, Labor Relations	(916) 531-5275	<a href="mailto:msalvo@sacrt.com">msalvo@sacrt.com</a>
Lydia Thames (D.E.R. / D.A.P.M.) Senior Labor Relations Analyst	(916) 557-1053 (916) 869-8116	<a href="mailto:lthames@sacrt.com">lthames@sacrt.com</a>

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