

- 2.8.8** Employees are not to engage in any business on Railway property that involves selling or buying merchandise or lending money.
- 2.8.9** Dishonest employees will not be retained in the service.
- 2.8.10** Immoral employees will not be retained in the service.
- 2.8.11** Quarrelsome employees will not be retained in the service.
- 2.8.12** Vicious employees will not be retained in the service.
- 2.8.13** Employees, on or off duty, are not to engage in unnecessary conversation with the operator in charge of a revenue vehicle.
- 2.8.14** Uniformed employees, upon request, are required to give their Identification number and vehicle number.
- 2.8.15** Employees must not engage in horseplay, fighting, sparring, or any form of practical joking that will compromise safety.
- 2.8.16** Employees must not loiter in areas open to the general public, nor in any manner interfere with Railway operation.
- 2.8.17** Employees must not possess a weapon while on duty.
- 2.8.18** Employees are prohibited from gambling while on duty or in uniform or at any time while on Railway property.
- 2.8.19** Employees may not play games on MUNI property after 6:00 P.M.
- 2.8.20** Employees are not to stop enroute between terminals, while in or out of service, or between garages, yards, or car houses and terminals, to enter any establishment, except to use the restroom or the telephone to report an emergency.

**2.8.21** Knowingly falsifying any report or knowingly entering or causing to be entered any inaccurate, false or improper information on MUNI logs, books, reports, or records is prohibited.

## **2.9 Alertness**

**2.9.1** Operators must remain fully alert at all times. Sleeping or assuming an attitude of sleep while on duty is forbidden.

**2.9.2** Operators on duty who become ill or otherwise feel they cannot maintain alertness to perform their normal duties must notify OCC or an inspector as soon as possible. Employees whose health becomes impaired to the degree that safety is threatened must notify OCC immediately.

**2.9.3** Operators must not engage in unnecessary conversation or otherwise allow themselves to be distracted while operating.

**2.9.4** Operators must be alert for hazards or obstructions and must take necessary action to avoid them, regardless of mode of operation.

**2.9.5** Operators must remain in active cab seat at all times while vehicle is in motion.

## **2.10 Medical Issues**

**2.10.1** Prescribed medicine - Operators taking any prescribed medicine that may affect their judgment or faculties or cause dizziness or any other abnormal reaction must not operate Railway equipment. If there are any questions, operator must contact supervisor and advise of medication and its effects.

**2.10.2** Color blindness - Operators must be able to clearly distinguish the colors used in the signage and signal systems.

**2.10.3** Corrective lenses - Operators required to wear corrective lenses by their California Driver License must wear the required lenses while operating Railway vehicles.

## **2.11 Drugs and Alcohol**

**2.11.1** All Safety-Sensitive employees are subject to the provisions of the Railway's Substance Abuse Policy and Procedures Handbook and must adhere strictly to its provisions.

**2.11.2** All employees are subject to the provisions of the Drug-Free Workplace Act of 1988, which prohibits the manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace. Pursuant to Railway policy, any employee engaging in the manufacture, distribution, dispensing, possession or use of a controlled substance on Railway premises, in transit vehicles, in uniform, or while on Railway business will be subject to disciplinary action, up to and including termination, and/or will be required to complete a drug abuse assistance or rehabilitation program.

**2.11.3** Every employee shall notify his or her supervisor of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to do so shall subject the employee to disciplinary action, up to and including termination, or satisfactory participation in a rehabilitation program.

**2.11.4** No employee shall indulge in the use of, or be under the influence of intoxicants, or have open container(s) of intoxicants in their possession when reporting for or while on duty or at any time on Railway premises.

**2.11.5** Employees shall not enter places where intoxicants are sold while on duty, except in case of necessity (i.e., emergency situation, use of restroom).

**2.11.6** Employees in uniform, while off duty, must respect their uniform and refrain from the use of intoxicants or show evidence of the use of alcoholic liquor. Frequenting bars or taverns when in uniform is to be avoided.

## **2.12 Training**

**2.12.1** Employees must attend training sessions as directed by their supervisors.

## **2.13 Discipline**

**2.13.1** Violation of any of the following rules will be sufficient cause for charges for disciplinary action involving suspension or, if appropriate, dismissal.

- A. Inattention to duties;
- B. Incompetence;
- C. Substance Abuse;
- D. Immoral Conduct;
- E. Insubordination;
- F. Discourteous treatment of the public or other employees of the SF MUNI Railway;
- G. Fighting;
- H. Mishandling fares;
- I. Dishonesty;
- J. Abandonment of vehicle;
- K. Willful abuse of railway property.

## **2.14 Traffic Laws**

**2.14.1** Employees must comply with the laws, ordinances, and regulations of the state of California and the city and county of San Francisco.

**2.14.2** Employees shall be familiar with and obey all such laws, ordinances, and regulations applicable to their responsibilities, including the signing of traffic citations.

## **EXHIBIT F**

## CONFIRMATION OF RECEIPT AND ACKNOWLEDGMENT

I acknowledge receipt of the San Francisco Municipal Transportation Agency's Substance Abuse Program Policy approved by the SFMTA Board of Directors on August 21, 2018 and its Drug and Alcohol Testing Procedures. I understand that it is my responsibility to familiarize myself with the program requirements and seek appropriate guidance or explanation if needed. I also understand that I am to sign this form and return it immediately.

---

Employee's Signature

---

Employee's Name (Printed)

---

Date

---

DSW#

Please complete and return this form to:

Substance Abuse Program  
One South Van Ness Avenue, Sixth Floor  
San Francisco, CA 94103



SUBSTANCE ABUSE PROGRAM

# **POLICY AND PROCEDURES HANDBOOK**


**Substance Abuse Program  
One South Van Ness Avenue, Sixth Floor  
San Francisco, CA 94103  
Tel: (415) 646-4766**

**October 11, 2022**

## Memorandum from the Director of Transportation



TO: All Safety-Sensitive Employees  
San Francisco Municipal Transportation Agency

FROM: Edward D. Reiskin   
Director of Transportation

DATE: December 5, 2018

SUBJECT: Federal Mandated Alcohol and Drug Testing Program

The enclosed revised Substance Abuse Policy and Procedures Handbook was approved by the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors on August 21, 2018.

The Substance Abuse Policy and Procedures Handbook governs the implementation of 49 CFR Part 40 and 655 as it pertains to the SFMTA.

Drug and Alcohol Testing includes the following types of testing for all Safety-Sensitive Employees: Pre-employment, Reasonable Suspicion, Post-Accident, Random, Return-to-Duty, and Follow-Up. The substances tested for are: Marijuana, Amphetamines, Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), Phencyclidine (PCP), and Cocaine. Enclosed you will find the procedures for each type of testing as well as a list of the safety-sensitive positions that are required to abide by the policy.

We encourage all employees who are experiencing problems with drugs and alcohol or other personal problems to contact the SFMTA CARE Employee Assistance Program (EAP) at 1.800.834.3773 for **free** and **confidential** assessment and referral services. If you have any questions regarding the revisions in the policy and procedures, you can contact the SFMTA Substance Abuse Program at 415.701.5018.

As part of the SFMTA dedication to providing public transit service that is safe for all employees and customers alike, I thank you for complying with the policy and procedures in this handbook.



SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 180904-124

WHEREAS, Since February 15, 1994, the U.S. Department of Transportation (DOT) has required recipients of federal assistance to have an alcohol and drug testing program and an employee training program in place for employees performing safety-sensitive functions, which requirements are embodied in 49 CFR Parts 40 and 655 (the Federal Rules); and,

WHEREAS, The Federal Rules require the governing body of a direct recipient of Federal financial assistance from the Federal Transit Administration to adopt a policy statement on alcohol misuse and prohibited drug use in the workplace by employees performing safety-sensitive functions; and,

WHEREAS, On December 13, 1994, in accordance with the Federal Rules, the predecessor to the SFMTA Board of Directors, the Public Transportation Commission (PTC), adopted a Substance Abuse Policy; including procedures for testing safety-sensitive employees for prohibited drugs and alcohol; and,

WHEREAS, On March 24, 1998, the PTC adopted Resolution No. 98-025, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the Federal Rules; and,

WHEREAS, On August 20, 2002, the SFMTA Board of Directors adopted Resolution No. 02-092, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the Federal Rules; and,

WHEREAS, On June 15, 2010, the SFMTA Board of Directors adopted Resolution No. 10-093, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the Federal Rules; and,

WHEREAS, The Department of Transportation (DOT) amended 49 CFR Part 40 of the Federal Rules to include additional prohibited drugs in the testing panel and make other changes, which regulations became effective January 1, 2018; and,


WHEREAS, On July 18, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the proposed revision to the SFMTA Substance Abuse Program Policy & Procedures Handbook is not a "project" under the California Environmental Quality Act (CEQA) pursuant Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; and,

WHEREAS, The Substance Abuse Program staff has updated the Substance Abuse Policy and Procedures to comply with the revisions to the Federal Rules; now, therefore, be it

RESOLVED, The SFMTA Board of Directors adopts a revised Substance Abuse Policy, which has been updated to reflect the recent changes to 49 Code of Regulations Part 40 regarding the addition of synthetic opioids to the U.S. Department of Transportation drug testing panel, to clarify certain existing drug testing program provisions and definitions, and to make technical amendments.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of September 4, 2018.

  
\_\_\_\_\_  
Secretary to the Board of Directors

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**SFMTA  
SUBSTANCE ABUSE PROGRAM  
POLICY**

## 1.0 Policy

\*The San Francisco Municipal Transportation Agency ("Agency" or "SFMTA") operates the San Francisco Municipal Railway. SFMTA is dedicated to providing public transit service within the City and to other parts of the region that is convenient, effective, safe, and efficient. SFMTA employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol-free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.\*

To achieve the goal of a substance-free workplace, this policy incorporates three integrated components:

**A. Prevention through education and training:** \*Education and training will consistently communicate and clarify this policy to all employees, assist employees in recognizing substance abuse problems and in finding solutions to those problems.\*

**B. Detection, deterrence and enforcement:** Under Federal law, all Safety-Sensitive employees are subject to pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up drug and alcohol testing. Applicants for Safety-Sensitive positions will not be hired nor will current employees be assigned to Safety-Sensitive Functions unless they pass applicable drug tests.

**C. Treatment and opportunities for rehabilitation:** \*Alcohol and drug abuse are recognized as diseases that can be treated. The Agency recognizes that our employees are the Agency's most important resource and encourages employees to take advantage of a voluntary rehabilitation program, to seek professional assistance through SFMTA's Peer Assistance Program or the SFMTA CARE Employee Assistance Program (EAP) prior to testing positive for drugs or alcohol, without fear of discipline.\*

\*Portions of this Policy marked with a single asterisk (\*) are not strictly FTA-mandated, but reflect current Agency employment policy.

## 2.0 Purpose

The purpose of this Policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs (as defined below). This policy complies with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has adopted 49 CFR Part 655, which mandates urine drug and breath alcohol testing for employees performing Safety-Sensitive Functions. These regulations also prevent Performance of Safety-Sensitive Functions when there is a positive, adulterated, or substituted test result, or other rule violation (e.g., refusal to test). The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards

for collecting and testing urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

In addition, DOT has published 49 CFR Part 29, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. The City adopted a Drug-Free Workplace policy for all of its employees in 1989. California passed a similar version of the federal law, the Drug-Free Workplace Act of 1990 (Gov't Code §§ 8350 et seq.). This Policy reiterates the requirements of the federal regulations; these requirements will be enclosed by double asterisks (\*\*).

If any provision of an existing Agency policy, rule or resolution is inconsistent or in conflict with any provision of this Policy or the DOT/FTA Rules, this Policy and the FTA Rules shall take precedence; if any provision of this Policy is inconsistent or in conflict with the FTA Rules, the FTA Rules shall take precedence.

### **3.0 Consequences of Misuse/Abuse**

The cost of substance misuse/abuse is devastating to society, the workplace, the family and individuals. Two thirds of all homicides are committed by people who use drugs or alcohol prior to the crime. Two-thirds of all Americans will be involved in an alcohol-related accident during their lifetimes.

The medical costs of illnesses related to substance misuse/abuse are staggering. Each year 30,000 people will die due to alcohol-caused liver disease. Another 10,000 will die due to alcohol-induced brain disease or suicide.

Besides the very real human costs just described, substance-abusing employees create very real business costs and legal liabilities for their employers:

Direct and measurable costs, such as the additional health care benefits claimed by substance abusers.

Less tangible and difficult-to-measure costs, such as the negative impact on employee morale or the diminished creativity of substance-abusing employees.

Potential costs or "liabilities," such as the potential costs of a lawsuit filed by an injured party after an accident caused by an impaired employee.

\*SFMTA's Substance Abuse Program has several components to promote a drug-free workplace and comply with FTA regulations:

An expanded Substance Abuse Policy;

An employee education program to alert employees to the dangers of alcohol and other drugs;

An education program for management, required for all supervisors, to assist them in understanding SFMTA policy, knowing available resources, and carrying out their responsibilities as they relate to employee substance abuse;

A voluntary Peer Assistance Program to encourage early intervention;

A contract for EAP services;

A Substance Abuse Professional to work with employees who test positive.

## 4.0 Definitions

**Accident:** An occurrence associated with the operation of a vehicle, if as a result:

(a) An individual dies; or

(b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the Accident; or

(c) With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or

(d) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

**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 beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)

**Cancelled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

**Contractor:** A person or organization that provides a safety-sensitive 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:** A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for SFMTA. This includes certain volunteers, as defined in Section 5.1.

**Dilute Specimen:** A specimen with creatinine and specific gravity values that are lower than expected for human urine.



**Direct Observation:** Collection of a urine specimen performed while under the observation of a Collector of the same gender as the employee providing the specimen, under the circumstances and according to the provisions set forth in 49 CFR Section 40.67.

**DOT:** The United States Department of Transportation.

**Employer:** A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes sub-recipients, operators, and contractors.

**Evidential Breath Testing Device (EBT).** A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

**FTA:** The Federal Transit Administration, an agency of DOT.

**Invalid Drug Test:** The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

**Legally Prescribed Drug:** A controlled substance (on Schedules II through IV of the Controlled Substance list) that is authorized for patient usage by a physician or medical practitioner.

**Medical Review Officer (MRO):** A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

**Negative Dilute:** A test result that is negative but meets the dilute criteria.

**Non-negative Drug Test:** A test result found to be Adulterated, Substituted, Invalid, or positive for drug/drug metabolites.

**Performing a Safety-Sensitive Function:** A covered employee is considered to be performing a safety-sensitive function at any time he or she is actually performing, ready to perform, or immediately available to perform such functions.

**Primary Specimen:** In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing.

**Refusal to submit:** A refusal to take a drug test as set out in 49 CFR Section 40.191 or an alcohol test as set out in 49 CFR Section 40.261.

**Safety-Sensitive Function (Safety-Sensitive Duty):** Any of the following duties, when performed by employees of recipients, sub-recipients, operators or contractors:

- (a) Operating a revenue service vehicle, whether or not in revenue service;

- (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (c) Controlling dispatch or movement of a revenue service vehicle;
- (d) Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service; or
- (e) Carrying a firearm for security purposes.

**Service Agents:** Any person or entity, other than an employee of the employer, who provides services specified in 49 CFR Part 40 to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs, laboratories, MROs, and SAPs. See Exhibit D for a list of Service Agents hired or under contract to SFMTA.

**Split Specimen:** In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

**Substance Abuse Professional (SAP):** A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**Substituted Specimen:** A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

## 5.0 Applicability

### 5.1 Covered Employees

This Policy applies to all Covered Employees, including paid part-time employees, who perform or could be called upon to perform any Safety-Sensitive Function. The Policy also applies to volunteers who: (a) are required to hold a commercial driver's license to operate a vehicle, or (b) Perform a Safety-Sensitive Function for SFMTA and receive remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity. Additionally, this policy applies to contractors who perform Safety-Sensitive Functions. For both drug and alcohol testing, this Policy applies during off-site lunch periods or breaks when an employee is scheduled to return to work.

A list of Safety-Sensitive positions is attached as Exhibit B. Participation in the prohibited substance testing program as described below is a requirement of each covered employee and therefore a condition of employment.

### 5.2 Other SFMTA Employees

**\*\*All SFMTA employees are subject to the provisions of the Drug-Free Workplace Act of 1988 (see Sections 6.1 of this Policy).\*\*** \*Visitors, vendors, and contractor employees on transit premises will not be permitted to conduct transit business if found to be in violation of the provisions of Section 8.1 of this Policy.\*

## 5.3 Contractors

Employees of SFMTA contractors who perform Safety-Sensitive Duties for SFMTA are subject to the same FTA and DOT regulations. However, these contractors are not required to implement the provisions of the Drug-Free Workplace Act of 1988.

## 6.0. Opportunities for Rehabilitation

To promote a drug- and alcohol-free workplace, this Policy includes two types of rehabilitation programs, voluntary rehabilitation and rehabilitation after a positive test result or Refusal to Submit to a test.

### 6.1. Voluntary Rehabilitation

\*An employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or Post-Accident testing or is not involved in a disciplinary proceeding, may voluntarily refer her or himself to the SFMTA's EAP or the Peer Assistance Program for evaluation and referral to a therapeutic program. The services of the EAP are also available to non-covered employees. Confidentiality, job security and promotional opportunities will be protected and no disciplinary action will be taken for such self-referral. The EAP will evaluate the employee and make a specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.\*

### 6.2. Rehabilitation after a Positive Alcohol or Drug Test, or Refusal

If there is a verified positive drug test result, a confirmed positive alcohol test result, or a Refusal to Submit to a test, the substance abuse professional (SAP) will refer the employee for substance abuse treatment or education services.

### 6.3 Costs of Rehabilitation.

\*Rehabilitation costs are provided to the extent offered by the Health Service System as part of employee health plans. Employees will be allowed to take accumulated sick leave and vacation leave to participate in any prescribed rehabilitation program.\*

## 7.0 Prohibited Drug Use and Alcohol Use

### 7.1 Prohibited Drugs

FTA regulations specifically prohibit the use of the following illegal drugs and drug metabolites at all times: marijuana, amphetamines (methylenedioxymethamphetamine (MDMA), methylenedioxyamphetamine (MDA)), opioids (codeine, heroin, morphine, 6-Acetylmorphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), phencyclidine (PCP), and cocaine.

## 7.2 Alcohol

No covered employee shall consume beverages containing alcohol, or substances, including any medication, such that alcohol is present in the body while performing transit business.

## 7.3 Legally Prescribed and Over-the-Counter Drugs

Prescription and over-the-counter drugs can adversely affect an employee's job performance. However, the use of legally prescribed drugs and over-the-counter drugs is permitted under the circumstances described below. Legally prescribed drugs include those drugs approved and authorized for the employee by a physician for use during the course of medical treatment. For prescription drugs, the physician must issue a written prescription that clearly indicates the employee's name, drug type, and proper dosage. A legally valid prescription must be consistent with the Controlled Substances Act, 21 U.S.C., Chap. 13, §§801, et seq..

\*If an employee is taking prescription and/or over-the-counter drugs, he/she must obtain a signed note from a physician that the use of this drug(s) at the prescribed or authorized dosage is consistent with the safe performance of the employee's Safety Sensitive Duties. This note must be presented to the employee's supervisor before Performing Safety-Sensitive Duties.

Failure to provide this note may result in disciplinary action.\*

## 8.0 Prohibited Conduct

### 8.1 Manufacture, Trafficking, Possession, and Use of Controlled Substances

\*\*The manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace is prohibited. A "controlled substance" is any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812), and as further defined by 21 CFR 1300.11-1300.15. Any employee engaging in the manufacture, distribution, dispensing, possession or use of a controlled substance on SFMTA premises, in transit vehicles, in uniform, or while on SFMTA business will be subject to disciplinary action, up to and including termination and/or will be required to satisfactorily complete a drug abuse assistance or rehabilitation program as a condition of employment.\*\* \*Law enforcement shall be notified, as appropriate, where criminal activity is suspected.\*

### 8.2 Notifying SFMTA of Criminal Drug Conviction.

\*\*Every employee, including covered employees, must notify SFMTA of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to do so shall subject said employee to disciplinary action, up to and including termination.\*\*

## 8.3 Alcohol Use/Hours of Compliance

8.3.1 No Covered Employee shall use alcohol while performing Safety-Sensitive Functions.

8.3.2 No Covered Employee shall report for duty to perform a Safety-Sensitive Function or remain on duty while performing a Safety-Sensitive Function while having an alcohol concentration of 0.04 or greater.

8.3.3 No Covered Employee shall have used alcohol within four hours prior to Performing Safety-Sensitive Functions. Further, if SFMTA has actual knowledge that a Covered Employee has used alcohol within four hours, the employee will not be permitted to perform or continue to perform Safety-Sensitive Functions.

8.3.4 No Covered Employee shall use alcohol during the hours that they are on call. A Covered Employee who admits to the use of alcohol while in an on call status will not be permitted to perform Safety-Sensitive Functions unless he or she takes and passes an alcohol test.

8.3.5 Covered Employees shall refrain from alcohol use for eight (8) hours following an Accident or until an alcohol test has been administered (see Section 9.3.3.4).

8.3.6 A Safety-Sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his or her duties for eight hours unless a re-test results in a concentration measure of less than 0.02.

## 8.4 Refusal to Submit to Testing

A Refusal to Submit to testing (a "Refusal") is treated the same as a positive test. The following conduct constitutes a Refusal.

8.4.1 Failing to appear for any test within a reasonable time (except for pre-employment tests)

8.4.2 Failure to remain at the testing site until the test has been completed

8.4.3 Failure or refusal to take a second test that SFMTA or the collector has directed the employee to take

8.4.4 Failure to cooperate with any part of the testing process, including obstructive or abusive behavior (refusal to drink water is not a refusal to test)

8.4.5 Failure to provide adequate urine or breath and subsequent failure to undergo a medical examination as required for inadequate breath or urine, or failure to provide adequate urine or breath and subsequent failure to obtain a valid medical explanation for the inadequate breath or urine condition

8.4.6 Failure to sign Step 2 of the alcohol test form (ATF)

- 8.4.7 Failure to permit the observation or monitoring of your provision of a urine specimen if Direct Observation is required under 49 CFR Part 40
- 8.4.8 Adulterating, Substituting or otherwise contaminating or tampering with a urine specimen as verified by the MRO
- 8.4.9 Leaving the scene of an Accident without just cause prior to submitting to a test
- 8.4.10 Admitting to the Collector or the MRO that an employee has adulterated or substituted a urine specimen
- 8.4.11 For a collection under Direct Observation, failure to follow the observer's instructions to raise and lower clothing, and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process
- 8.4.12 Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process

\*Violation of these provisions shall be in accordance with disciplinary guidelines contained in applicable employee memoranda of understanding.\*

## **9.0 Testing for Prohibited Substances**

### 9.1 Compliance with Testing Requirements

Covered Employees are required to comply with all federal testing requirements, as contained in 49 CFR Parts 40 and 655.

### 9.2 Procedures for Testing

#### 9.2.1 General

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Services (DHHS) and the U.S. Department of Transportation (DOT). Testing for prohibited drugs and alcohol on covered employees shall be conducted in accordance with the procedures set forth in 49 CFR Part 40. The procedures that will be used to test for the presence of illegal drugs or alcohol misuse are designed to protect the employee and the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee.

#### 9.2.2 Testing for Prohibited Drugs

Covered Employees may be tested for Prohibited Drugs at any time while on duty. The staff of the collection facility under contract to SFMTA (the "Collector") shall collect urine samples from Covered Employees to test for

prohibited drugs. The Collector will split each urine sample collected into a primary and a Split sample (see Testing Procedures). The urine samples will be sent under seal, with required chain of custody forms, to the laboratory. At the laboratory, specimens are placed in secure storage. An initial drug screen will be conducted on each primary specimen. For those specimens that are not negative, a test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as set forth in the attached Exhibit B. The specimen may also be considered Adulterated or Substituted based on criteria established by DOT and DHHS (see Section 9.2.2.1). If the result of the test of the primary specimen is positive, Adulterated, Substituted or Invalid, the primary and Split Specimens will be retained in frozen storage for at least one year.

### 9.2.3 Specimen Validity Testing

Specimen validity testing is the evaluation of the specimen by the laboratory to determine if it is consistent with normal human urine. Validity testing determines if the specimen contains Adulterants or foreign substances, if the urine was Diluted, or if the specimen was Substituted. Validity testing is conducted on all SFMTA specimens, in addition to the drug testing described in Section 9.2.2.

### 9.2.4 Alcohol Testing

Tests for alcohol concentration on Covered Employees will be conducted with a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test on an employee indicates an alcohol concentration equal to 0.02 or greater, a second test will be performed to confirm the results of the initial test. For a summary of applicable alcohol threshold levels, see Exhibits C-1 and C-2.

### 9.2.5 Medical Review Officer (MRO)

All drug testing results shall be interpreted and evaluated by an MRO. The MRO shall comply with the drug testing procedures set forth in 49 CFR Part 40. The MRO does not review alcohol test results.

When the laboratory reports a confirmed positive, Adulterated, Substituted, or Invalid test, it is the responsibility of the MRO to: (a) within 24 hours after verifying the test, contact the employee and inform him or her of the positive, Adulterated, Substituted, or Invalid test result, (b) afford the employee an opportunity to discuss the test results with the MRO; (c) review the employee's medical history, including any medical records and biomedical information provided; and (d) determine whether there is a legitimate medical explanation for the result, including legally prescribed medication. If the employee indicates that he or she has a medical explanation for the positive, Adulterated,

Substituted, or Invalid test, he or she has up to five days to provide this information to the MRO.

#### *9.2.5.1 Inability to Contact Employee.*

The MRO has the authority to verify a positive or Refusal To Test without interviewing the employee if (a) the employee refuses to discuss the test result with the MRO, (b) if SFMTA has successfully directed the employee to contact the MRO, and the employee has not made contact with the MRO within 72 hours, (c) if neither the MRO nor SFMTA has made contact with the employee within 10 days of the date that the MRO received the test result from the laboratory.

#### *9.2.5.2 MRO Determination*

The MRO shall not convey test results to SFMTA until the MRO has made a definite decision that the test result was positive, Adulterated, Substituted, Invalid, or negative. The MRO may request the laboratory to conduct additional analysis of the original sample in order to verify the accuracy of the test result.

#### *9.2.5.3 MRO Report*

The MRO will report the test as either negative, negative with medical concern, positive, a Refusal due to Adulteration or Substitution, or Cancelled (Invalid). When the MRO reports the results of the verified positive test to SFMTA, the MRO will disclose the drug(s) for which there was a positive test. The MRO will also provide additional, clarifying information to SFMTA for tests that are confirmed as a refusal due to Adulteration or Substitution or Cancelled. The MRO may only reveal the quantitative amount of a positive drug test result to the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive drug test result.

#### *9.2.5.4 Split Specimen*

When the MRO has verified a test positive or as a Refusal to Test due to Adulteration or Substitution, the MRO shall inform the employee that he or she has 72 hours to request a test of the Split Specimen.

### 9.3 Types of Testing

49 CFR Part 655 requires the following types of testing for Covered Employees: pre-employment, pre-promotion or transfer, reasonable suspicion, post-Accident, random, return-to-duty, and follow-up testing.



## 9.3.1 Pre-employment, Transfer Testing

### 9.3.1.1 *Pre-employment Tests*

All applicants for Safety-Sensitive positions shall undergo urine drug testing prior to employment and within 90 days prior to performing Safety-Sensitive Duties for the first time. Receipt by the SFMTA of a negative test result is required prior to the employee being placed on the payroll. \*A positive, Adulterated, or Substituted test will result in a decision not to hire, and the applicant's name will be removed from the list of eligibles for Safety-Sensitive positions. SFMTA will not consider any future application from the applicant for at least two years.\* If the MRO Cancels a pre-employment test, the applicant shall be subject to another drug test. If the applicant's initial test is negative dilute the applicant will be directed to retest. If the retest result is negative dilute the applicant will not be hired and can reapply in six months.

### 9.3.1.2 *Transfer Testing*

Employees who are being considered for transfer to Safety-Sensitive positions from non-Safety-Sensitive positions will be required to undergo a drug test. An employee with a confirmed positive drug test as certified by the MRO will be disqualified from immediate transfer. \*An employee who tests positive may reapply after six (6) months if he/she has successfully completed the SAP recommendations and has a negative return-to-duty test.\*

### 9.3.1.3 *Employees on Leave*

When an applicant or covered employee (a) has not performed a Safety-Sensitive Function for 90 consecutive calendar days regardless of the reason, and (b) has not been in the random pool during that 90-day period, the individual must take another pre-employment test with a verified negative result.

### 9.3.1.4 *Prior Positive Tests or Refusals to Submit*

When an applicant or Covered Employee has previously failed any DOT-required test, the individual must provide proof to SFMTA that he or she has successfully completed the SAP referral, evaluation and treatment process. SFMTA will not consider hiring any person who tested positive or Refused to submit to testing for a minimum of two years following the positive test.

## 9.3.2 Reasonable Suspicion Testing

### *9.3.2.1 Federally Mandated Testing*

All Covered Employees shall be subject to reasonable suspicion testing, to include urine and/or breath testing when there are reasons to believe that the Covered Employee has used a Prohibited Drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made on the basis of contemporaneous, articulable, and specific observations concerning the appearance, behavior, speech or body odors of the employee. Only supervisors who are trained to detect and document the signs and symptoms of drug and alcohol use will be authorized to make reasonable suspicion determinations.

Reasonable suspicion tests for the presence of alcohol shall only be made just prior, during, or immediately after performance of a Safety-Sensitive Function, based on observations made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance. Additionally, a reasonable suspicion alcohol test should be conducted within two hours of the determination to test. An alcohol test cannot be performed if it has not been completed within eight hours of the determination to test.

## 9.3.3 Post-Accident Testing

### *9.3.3.1 Fatal Accidents*

As soon as practicable following an Accident that involves the loss of human life, SFMTA will conduct drug and alcohol tests on each surviving Covered Employee operating the public transportation vehicle at the time of the Accident. SFMTA will also conduct drug and alcohol tests on any covered employees whose performance could have contributed to the Accident, as determined by the onsite SFMTA supervisor using the best information available at the time of the decision.

### *9.3.3.2 Non-Fatal Injury Accidents*

As soon as practicable following a non-fatal Accident in which a public transportation vehicle is involved, SFMTA will conduct drug and alcohol tests on each Covered Employee operating the public transportation vehicle at the time of the Accident unless SFMTA determines, using the best information available at the time, that the covered employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

### 9.3.3.3 *Vehicle Damage*

With respect to Accidents involving vehicle damage, all Covered Employees shall be tested in the following circumstances:

- a) In an Accident involving a **road surface vehicle** (e.g., bus, van, automobile), if any vehicle involved in the incident is disabled and must be towed from the scene, any Covered Employee operating the public transportation vehicle shall be tested unless SFMTA determines, using the best information available at the time, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.
- b) In an Accident involving **another type of public transportation vehicle** (e.g., rail car, trolley bus, streetcar, cable car), if the public transportation vehicle is removed from revenue service, any Covered Employee on duty in the vehicle shall be tested unless SFMTA determines, using the best information available at the time, that the Covered Employee's performance can be completely discounted as a contributing factor to the Accident. Additionally, SFMTA shall test any other Covered Employee whose performance SFMTA determines could have contributed to the Accident.

### 9.3.3.4 *Procedure*

Following an Accident, all Covered Employees subject to testing shall remain readily available for testing. An employee who fails to remain readily available, including notifying a supervisor of his or her location if he or she leaves the scene of the Accident prior to submitting for testing, may be deemed to have Refused to Submit to testing.

The drug test shall occur as soon as possible, but not later than 32 hours after the Accident. An alcohol test must be attempted within two hours after the Accident. If the employee is not tested within two hours, a report must be filed documenting why the test was not performed within two hours. If an alcohol test is not administered within eight hours of the Accident, SFMTA shall cease attempts to test and shall update the report to document the reasons why the test was not conducted. Nothing in this section shall delay medical attention for the injured following an Accident or prohibit an employee from leaving the scene of an Accident for the period necessary to obtain assistance in responding to the Accident or to obtain necessary emergency medical care when appropriate approval is given.

## 9.3.4 Random Testing

### 9.3.4.1 *General*

Covered Employees will be subject to unannounced, random drug and alcohol testing in accordance with FTA regulations. Random testing is unpredictable and spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when Safety-Sensitive functions are performed.

### 9.3.4.2 *Random Pool*

Each Covered Employee shall be in a pool from which a minimum of 50% random selection is made for drug testing and a minimum of 10% for alcohol testing annually. Each such employee shall have an equal chance at selection and shall remain in the pool after being tested. The basis for random selection shall be by a scientifically valid random number generation method initiated by computer.

### 9.3.4.3 *Procedure*

Each employee notified of selection for random drug or random alcohol testing is required to proceed to the test site immediately. If the employee is performing a Safety-Sensitive Function at the time of notification, the SFMTA shall ensure that the employee ceases to perform the Safety-Sensitive Function and proceeds to the testing site immediately. A Covered Employee shall only be randomly tested for alcohol while the employee is performing Safety-Sensitive Functions, just before the employee is to perform Safety-Sensitive Functions, or just after the employee has ceased performing such functions.

## 9.3.5 Return-to-Duty Testing

Any Covered Employee who has failed a drug test, tested in at 0.04 or greater on an alcohol test, or who has Refused to Submit to a test, must pass the return-to-duty test ordered by the SAP. The return-to-duty drug test will be performed under Direct Observation as described in 49 CFR Section 40.67. He/she also must have successfully completed the SAP recommendations \*and sign a return-to-work agreement.\* A positive return-to-duty test counts as a second positive.

In order to be allowed to return to work in his or her Safety-Sensitive position, a Covered Employee must test negative on the SAP-ordered return-to-duty drug test and less than 0.02 on the return-to-duty alcohol test.

## 9.3.6 Follow-Up Testing

After returning to duty, the employee will be subject to unannounced drug and/or alcohol tests for up to 60 months as determined by the SAP, with a

minimum of six tests during the first 12 months. The follow-up drug test will be performed under Direct Observation as described in 49 CFR Section 40.67.

\*Regarding Follow-Up Testing: an employee with an alcohol concentration of greater than or equal to 0.02 but less than 0.04 will be removed from Safety Sensitive Function and will be referred to the Substance Abuse Program Manager.\*

## 9.4 Testing of Split Specimen

Any Covered Employee who questions a verified positive drug test or a Refusal to Submit to testing because of Adulteration or Substitution has 72 hours from the time of notification to ask the MRO for a test of the Split Specimen.

Requests after 72 hours will only be accepted if the delay was due to documentable facts (e.g., serious injury, illness, inability to contact the MRO) that were beyond the control of the employee. This test will be conducted at a different DHHS-certified laboratory. The method of collecting, storing, and testing the Split Specimen will be consistent with the procedures set forth in 49 CFR Part 40. After a positive test, the employee will be immediately removed from his or her Safety-Sensitive Function even if analysis of the split is requested.

\*The employee will be responsible for the cost of having the Split Specimen tested at the second DHHS laboratory.\* If the employee does not pay such costs, SFMTA will seek reimbursement for the expense from the employee.

If the Split Specimen is unavailable or appears insufficient for testing, the MRO will Cancel the test and direct SFMTA to send the employee for another test that will be performed under Direct Observation. No advance notice will be given to the employee.

## 9.5 Consequences of Non-negative Test Result

### 9.5.1 Positive Drug or Alcohol Test; Refusal to Submit

Any Covered Employee who has a positive drug test as verified by the MRO, a confirmed alcohol test of 0.04 or greater, or who Refuses to Submit to a test will be removed from Safety-Sensitive Functions immediately, evaluated by a SAP, and informed of educational and rehabilitation resources available.

\*An employee who tests positive will be offered a disciplinary hearing (Skelly Meeting). The employee has the option to voluntarily waive this hearing for the **first** positive drug or alcohol test if he/she agrees to accept a 30-day suspension in lieu of termination.\*

### 9.5.2 Invalid Result

Invalid Drug Test If the MRO reports to SFMTA that an employee's drug test is Invalid, without a medical explanation that is acceptable to the MRO, the employee will be subject to an immediate re-test under Direct Observation, without advance notice. If the employee has a medical explanation for the

Invalid Test that is acceptable to the MRO, the test will be Cancelled, with no further action required.

### 9.5.3 Dilute Specimen

A drug test result that is positive and Dilute will be treated as positive. All drug test results that are determined to be negative and Dilute will require that the employee take an immediate retest. If the retest yields a second negative Dilute result, the test will be treated as a normal negative test.

**\*Violation of these provisions shall be in accordance with disciplinary guidelines contained in applicable employee memoranda of understanding.\***

### 9.5.4 Negative with a Safety Concern

In the event the MRO has a safety concern due to a legally prescribed medication, the MRO must also advise the employee that, before informing the Designated Employer Representative (DER) about any medication the employee is using pursuant to a legally valid prescription consistent with the Controlled Substances Act, the employee will be allowed five business days from the date the MRO reports the verified negative result to have his or her prescribing physician contact the MRO to determine if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If, in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk remains after the MRO communicates with the employee's prescribing physician or after five business days, whichever is shorter, the MRO will report the drug test results with a safety risk to the DER. If the MRO receives information that eliminates the medical qualification issue or significant safety risk, the MRO must transmit this information to the DER to whom the MRO previously provided information to.

If in the event the MRO reports to the DER that an employee is prescribed a medication that presents a medical qualification issue and/or indicates that continued performance by the employee of his or her Safety-Sensitive Function is likely to pose a significant safety risk, the employee will be referred for evaluation to an Occupational Health medical examiner at San Francisco General Hospital for final determination of medical suitability in performing Safety-Sensitive Functions.

## **10.0 Substance Abuse Professional (SAP)**

Any Covered Employee who tests positive or refuses to submit to testing will be evaluated by a SAP. A SAP must be a licensed physician, psychologist, social worker, certified employee assistance professional, marriage/family therapist, or nationally certified addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

The SAP will evaluate each employee by conducting a face-to-face assessment to determine what assistance the employee needs in resolving problems associated with drug abuse or alcohol misuse. If an employee is allowed to return to duty, he or she must properly follow the rehabilitation program prescribed by the SAP.

## **11.0 Return-to-Work Agreements**

\*The SAP will provide a written release to the appropriate division certifying the employee's eligibility to be considered for return to Safety-Sensitive Duty only after the employee has signed a return-to-work agreement. The return-to-work agreement shall outline the terms and conditions of continuing care.\*

## **12.0 Compliance with Background Check Requirements**

All applicants and employees (transfers) applying for Safety-Sensitive positions are required to sign a written consent to allow SFMTA to obtain the following information regarding the applicant/employee's DOT drug and alcohol testing history for the previous two years:

- Alcohol tests with a result of .04 or higher
- Verified positive drug tests
- Refusals to be tested, including verified Adulterations and Substitutions
- Failed pre-employment tests
- Other violations of DOT drug and alcohol testing regulations
- Documentation of the successful completion of return-to-duty requirements and follow-up tests

Information will be obtained from all DOT-regulated employers who employed the applicant/employee for a period of two years prior to the date of the application. Such employers will be asked to include any alcohol and drug test information obtained from previous employers or other applicable DOT agency regulations. For example, if a former employer has information from other employers (within the two-year period), that employer is obligated to provide that information to SFMTA.

Additionally, the applicant or covered employee must disclose if they, within the prior two years, failed a pre-employment drug or alcohol test for an employer that did not hire them.

## **13.0 Training and Education**

All Covered Employees shall participate in a minimum one-hour training session designed to meet FTA requirements by learning about the effects and consequences of drug use on personal health, safety and the work environment.

For supervisors participating in reasonable suspicion testing, there will be at least two hours of training to explain the criteria for reasonable suspicion determinations and testing, including at

least an hour on the physical, behavioral and performance indicators of probable drug use and another hour on the physical, behavioral, speech and performance indicators of probable alcohol misuse.

Initial training sessions will be re-enforced with educational materials and meetings. Further, employees shall be provided with SFMTA's EAP telephone number.

## **14.0 Records & Confidentiality**

### 14.1 Access to Records

A Covered Employee is entitled, upon written request, to review and obtain copies of any records relating to the employee's drug and alcohol testing (excluding follow-up testing plan) and to provide information to dispute the results. However, the results of individual drug or alcohol tests shall not be released by SFMTA to anyone other than the employee without expressed written authorization of the tested individual. The only exceptions are as follows:

- a) Release to the collection facility, testing laboratory, MRO or SAP, or designee;
- b) Pursuant to a lawful court order or other law requiring disclosure;
- c) In connection with an SFMTA disciplinary, grievance, arbitration or other legal proceeding initiated by or on behalf of the individual and arising from a certified positive drug or alcohol test or from SFMTA's determination that the employee engaged in conduct prohibited under the FTA rules.
- d) To the Secretary of Transportation, any DOT agency with regulatory authority over the employer or any of its covered employees, or to a State oversight agency authorized to oversee rail fixed guideway systems.
- e) When requested by the National Transportation Safety Board as part of an Accident investigation, SFMTA shall disclose information related to its administration of a Post-Accident drug or alcohol test administered following the Accident under investigation.
- f) When requested by a State oversight agency to certify to FTA compliance with drug and alcohol testing procedures of 49 CFR Parts 40 and 655.

Access to records retained by SFMTA shall not be contingent upon the receipt of payment for production of those records. However, the MRO, laboratory, and other service agents may charge for producing records as long as those charges are consistent with 49 CFR Part 40.

### 14.2 Records Maintained

SFMTA shall maintain substance abuse program records in a secure location with controlled access. Records held by SFMTA or its service agents shall be maintained as follows: (a) results of negative drug tests and alcohol tests less than .02 – one year; (b) records of collection and training, records of inspection, calibration, and maintenance of EBTs – two years; (c) records of background checks – three years; (d) records of



information from previous employers concerning drug and alcohol test results, records of verified positive drug test results and alcohol tests .02 or greater, documentation of Refusals including Adulterations and Substitutions, referrals to the SAP and evaluations, follow up tests and follow up testing schedules, MIS reports to FTA – five years.

Service agents maintain all records relating to urine specimen analysis in confidence for at least two years. Service agents may not disclose such records to anyone other than the employer, the employee, or the decision maker in a lawsuit, grievance or other proceeding initiated by the employee and arising from a verified positive test result.

## 15.0 System Contact

Any questions regarding this policy or any other aspect of SFMTA's Substance Abuse Management Program should be directed to the office of transit system representative:

Name: Beverly Tilson, M.S., LAADC-CA, ICAADC, WTS  
Title: Substance Abuse Program Manager  
Address: One South Van Ness Ave, 6<sup>th</sup> floor  
San Francisco, CA 94103  
Telephone: (415) 646-4766

## 16.0 Revisions to the Policy and Program

\*This policy and program is subject to revision.\*

## EXHIBIT A: Drug and Alcohol Service Agents

### Off-Site Collections

**Mega Lab Services**

1321 Evans Ave Suite E  
San Francisco, CA 94124  
(415) 872-9284

### On-Site Collections

**Zenith Health Network**

1321 Evans Ave Suite E  
San Francisco, CA 94124  
(415) 872-9284

### Laboratory

**Alere Toxicology Services Inc**

1111 Newton Street  
Gretna, LA 70053  
(800) 433-3823 Ext. 68225

### Medical Review Officer

**Comprehensive Drug Testing Inc.**

230 Commerce  
Irvine, CA 92602  
(714) 852-5200

### Substance Abuse Professional (SAP)

**Beverly Tilson, M.S., LAADC-CA, ICAADC, WTS**

One South Van Ness, 6<sup>th</sup> Floor  
San Francisco, CA 94103  
(415) 646-4766 (Office)  
(415) 930-0354 (Mobile)



## EXHIBIT B: Safety-Sensitive Classifications

### Basis for Testing

- A. Maintaining or repairing a revenue service vehicle or equipment used in revenue service.
- B. Operating a revenue service vehicle.
- C. Controlling dispatch or movement of a revenue service vehicle.
- D. Operating a non-revenue service vehicle when required to be operated by a holder of a Commercial Driver's license.
- E. Carrying a firearm for security purposes.

### Operations Division

Class	Title	Basis for Testing	Union
9136	Transit Training Specialist	C	200
9139	Transit Supervisor	C	200
9140	Transit Manager I	C	200
9141	Transit Manager II	C	200
9142	Transit Manager III	C	MEA
9143 *	Transit Manager IV	C	MEA
9150	Train Controller	C	200
9152	Transportation Controller Trainee	C	200
9153	Transportation Controller	C	200
9160	Transit Operations Specialist	C	200
9163	Transit Operator	B	TWU-250A
9172 *	Manager II	C	MEA
9174 *	Manager IV	C	MEA
9184 *	Deputy General Manager (Operations)	C	MEA
9916 *	Public Service Aide	C	Unrepresented

All above supervisors and managers may in the course of their duties control the movement of revenue service vehicles and so are included in the testing program.

\* Some employees in these classifications are non-Safety Sensitive.



## Maintenance Division

Class	Title	Basis for Testing	Union
6252	Line Inspector	A	6
7110	Mobile Equipment Assistant Supervisor	D	3
7126	Mechanical Shop Equipment Supervisor	C	1414
7130	General Superintendent Facilities Maintenance	C	MEA
7212	Automotive Transit Equipment Superintendent	C	MEA
7214	Electrical Transit Equipment Supervisor	C	6
7215	General Laborer Supervisor	C	261
7216	Electrical Transit Shop Supervisor I	C	6
7223	Cable Machinery Supervisor	C	39
7228	Automotive Transit Shop Supervisor I	C	1414
7235	Transit Power Line Supervisor I	C	6
7241	Senior Maintenance Controller	C	1414
7244	Power Plant Supervisor I	C	6
7249	Automotive Mechanic Supervisor	C	1414
7251	Track Maintenance Worker Supervisor I	C	853
7253	Electrical Transit Mechanic Supervisor I	C	6
7254	Automotive Machinist Supervisor I	A	1414
7255	Powerhouse Electrician Supervisor I	C	6
7264	Automotive Body & Fender Worker Supervisor I	C	1414
7279	Powerhouse Electrician Supervisor I	C	6
7286	Wire Rope Cable Maintenance Supervisor	E	39
7287	Supervising Electronic Maintenance Technician	A	6
7306	Automotive Body & Fender Worker	A	1414
7310	Transit Power Cable Splicer	A	6
7313	Automotive Machinist	A	1414
7314	Apprentice Stationary Engineer I	A	39
7315	Automotive Machinist Assistant Supervisor	A,B	?
7318	Electronic Maintenance Technician	A	6
7320	Apprentice Automotive Machinist I	A,B,D	1414
7321	Apprentice Automotive Machinist II	A,B,D	1414
7322	Automotive Body & Fender Worker Assistant Supervisor	C	1414
7325	General Utility Mechanic	A	1414
7326	Glazier	A	718
7328	Operating Engineer Universal	D	6
7329	Electronic Maintenance Technician Assistant Supervisor	A	6
7333	Apprentice Stationary Engineer II	A	39
7334	Stationary Engineer	A	39



Class	Title	Basis for Testing	Union
7338	Electrical Line Worker	A	6
7340	Maintenance Controller	C	1414
7345	Electrician	A	6
7355	Truck Driver	D	853
7364	Powerhouse Operator	C	6
7365	Senior Powerhouse Operator	C	6
7366	Transit Power Line Worker	A	6
7371	Electrical Transit System Mechanic	A, B	6
7380	Electrical Transit Mechanic Assistant Supervisor	C	1414
7381	Automotive Mechanic	A, B	1414
7382	Automotive Mechanic Assistant Supervisor	C	6
7383	Apprentice Automotive Mechanic I	A,B,D	1414
7384	Apprentice Automotive Mechanic II	A,B,D	1414
7390	Welder	A	6
7408	Assistant Powerhouse Operator	C	6
7409	Electrical Transit Service Worker	A, B	*
7410	Automotive Service Worker	A, B	TWU-250A
7412	Automotive Service Worker Assistant Supervisor	C, B	200
7430	Assistant Electronic Maintenance Technician	A	6
7432	Electrical Line Helper	A	6
7454	Traffic Signal Operator	C	1021
7458	Switch Repairer	A	261
7472	Wire Rope Cable Maintenance Mechanic	A	39
7473	Wire Rope Cable Maintenance Mechanic Trainee	A	39
7514	General Laborer	A	261
7540	Track Maintenance Worker	A	261
9102	Transit Car Cleaner	A	1021
9104	Transit Car Cleaner Assistant Supervisor	C, B	1021
9940	Pre-Apprentice Automotive Mechanic	A,B,D	1414

## EXHIBIT C: DOT Drug Panel

Pursuant to U.S. Department of Transportation regulations, following are the drugs to be tested for, and the threshold levels of each test which the SFMTA is required to accept.

Initial test analyte	Initial test cutoff concentration <sup>1</sup>	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) <sup>2</sup>	50 ng/mL <sup>3</sup>	THCA <sup>1</sup>	15 ng/m
Cocaine metabolite (Benzoylecgonine)	150 ng/mL <sup>3</sup>	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL
Hydrocodone/Hydromorphone	300 ng/mL	Hydrocodone/Hydromorphone	100 ng/mL
Oxycodone/Oxymorphone	100 ng/mL	Oxycodone/Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/Methamphetamine/ MDMA <sup>4</sup> /MDA <sup>5</sup>	500 ng/mL	Amphetamine/Methamphetamine/MDMA/MDA	250 ng/mL

<sup>1</sup> For grouped analytes (i.e., two or more analytes in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

<sup>2</sup> An immunoassay must be calibrated with the target analyte, Δ-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>3</sup> Alternate technology (THCA and Benzoylecgonine): When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

<sup>4</sup> Methylenedioxyamphetamine (MDMA).

<sup>5</sup> Methylenedioxyamphetamine (MDA).

- The Medical Review Officer (MRO) has the authority to conduct D, L stereoisomer and THC –V testing.



## ALCOHOL

(Includes ethanol, methanol, isopropanol)

Breath Alcohol Concentration (expressed in terms of grams of alcohol per 210 liters of breath)	
Initial Screen	Confirmatory (given if initial screen is 0.02 or greater)
Less than 0.02 Perform Safety-Sensitive Function	0.02 or greater Employee may not perform Safety-Sensitive Function



## EXHIBIT D: Consequences of Positive Drug/Alcohol Tests (9163's)

Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 <sup>st</sup> Positive	2 <sup>nd</sup> Positive Within 5 Years
Pre-Employment	Drug	N/A	N/A	Not hired, may not reapply for two years.	Not hired, may not reapply.
Pre-Employment (90-Day Rule)	Drug	N/A	Return to Work process paused	Removed from Duty <sup>1</sup> No pay, <sup>2</sup> , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action. Discipline will not imposed until cleared for safety-sensitive duty.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Drug	Drug	Assumed Negative	On Duty	Removed from Duty <sup>1</sup> No pay, <sup>2</sup> , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Alcohol	Alcohol > or = .04	Positive	Immediate Results	Removed from Duty <sup>1</sup> No pay, <sup>2</sup> , Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Post Accident	Drug or Alcohol	Assumed Negative	On Duty	Removed from Duty <sup>1</sup> No pay, Referred to SAP, SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action. <sup>4</sup>	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Reasonable Suspicion	Drug or Alcohol	Assumed Positive	Off Duty Until Results Received	Removed from Duty <sup>1</sup> No pay, Referred to SAP, Return to Duty	Will be Subject to Termination Except Where Substantial





Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 <sup>st</sup> Positive	2 <sup>nd</sup> Positive Within 5 Years
				Test,3, Follow-Up Testing, Subject to Disciplinary Action.4	Mitigating Circumstances Warrant.
Return-to-Duty	Drug or Alcohol	Assumed Negative	Off Duty Until Results Received	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Follow-Up Testing	Drug or Alcohol	Assumed Negative	On Duty	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



Issues	Substance	1st Occurrence	2nd Occurrence Within 5 Years
Refusal to Test	Drug or Alcohol	Removed from Duty <sup>1</sup> No pay. Referred to SAP For treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Failure to Comply with Treatment Program or Return to Work Agreement	Drug or Alcohol	Off work <sup>1</sup> No pay. Referred to SAP for treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Alteration of Specimen	Drug or Alcohol	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant. <sup>1</sup>	Termination

- 1 Any employee who is subsequently determined to be the subject of a false positive or under reasonable suspicion tests negative shall be made whole for any wages and benefits lost.
- 2 Employee may use accumulated sick/vacation pay for rehabilitation program.
- 3 Employee may not return to work until SAP certifies them capable of returning to their safety-sensitive job.
- 4 Disciplinary action to be a 30-day suspension except that a first positive relating to an incident resulting in death, serious bodily injury or substantial destruction of property warrants immediate discharge



## EXHIBIT E: Consequences of Positive Drug/Alcohol Tests (Not 9163)

Testing Types	Substance	Assumption of Results	Employee Status Waiting for Results	1 <sup>st</sup> Positive	2 <sup>nd</sup> Positive Within 5 Years
Pre-Employment	Drug	N/A	N/A	Not hired, may not reapply for two years.	Not hired, may not reapply.
Pre-Employment (90-Day Rule)	Drug	N/A	Return to Work process paused	Removed from Duty <sup>1</sup> No pay, <sup>2</sup> Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action. Discipline will not imposed until cleared for safety-sensitive duty.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Drug	Drug	Assumed Negative	On Duty	Removed from Duty <sup>1</sup> No pay, <sup>2</sup> Referred to SAP SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Random - Alcohol	Alcohol > or = .04	Positive	Immediate Results	Removed from Duty <sup>1</sup> No pay, <sup>2</sup> Referred to SAP SAP Recommendation for Treatment, Return to Duty	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



				Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action.	
Post Accident	Drug or Alcohol	Assumed Negative	On Duty	Removed from Duty <sup>1</sup> No pay, Referred to SAP, SAP Recommendation for Treatment, Return to Duty Test, <sup>3</sup> Follow-Up Testing, Subject to Disciplinary Action. <sup>4</sup>	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Reasonable Suspicion	Drug or Alcohol	Assumed Positive	Off Duty Until Results Received	Removed from Duty <sup>1</sup> No pay, Referred to SAP, Return to Duty Test, <sup>3</sup> , Follow-Up Testing, Subject to Disciplinary Action. <sup>4</sup>	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Return-to-Duty	Drug or Alcohol	Assumed Negative	Off Duty Until Results Received	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.
Follow-Up Testing	Drug or Alcohol	Assumed Negative	On Duty	N/A	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.



Issues	Substance	1 <sup>st</sup> Occurrence	2 <sup>nd</sup> Occurrence within 5 years
Refusal to Test	Drug or Alcohol	Removed from Duty <sup>1</sup> No pay. Referred to SAP For treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Failure to Comply with Treatment Program or Return to Work Agreement	Drug or Alcohol	Off work <sup>1</sup> No pay. Referred to SAP for treatment recommendation. Return to duty and follow-up testing. Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant.	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant
Alteration of Specimen	Drug or Alcohol	Will be Subject to Termination Except Where Substantial Mitigating Circumstances Warrant. <sup>1</sup>	Termination

- 1 Any employee who is subsequently determined to be the subject of a false positive or under reasonable suspicion tests negative shall be made whole for any wages and benefits lost.
- 2 Employee may use accumulated sick/vacation pay for rehabilitation program.
- 3 Employee may not return to work until SAP certifies them capable of returning to their safety-sensitive job.
- 4 Disciplinary action to be a 30-day suspension except that a first positive relating to an incident resulting in death, serious bodily injury or substantial destruction of property warrants immediate discharge.

**SFMTA  
DRUG AND ALCOHOL TESTING  
PROCEDURES**

## Drug Specimen Collection Procedures

These collection procedures shall apply to all types of drug testing (e.g. Random, Reasonable Suspicion, Post-Accident, etc.)

1. Collection site(s)/agents shall have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage, and shipping or transportation of urine specimens to a DHHS-certified drug testing laboratory. Collection site(s)/agents shall be qualified/trained in accordance with Federal Regulations.
2. The collection agent will execute standardized chain-of-custody forms. Handling and transportation of urine specimens from one authorized individual or place to another shall always be accomplished through chain-of-custody procedures. Every effort will be made to minimize the number of persons handling specimens. All DOT (FTA) tests for covered employees shall be conducted using DOT chain-of-custody forms. Drug tests conducted under SFMTA's own authority may not use federal chain-of-custody forms.
3. Designated on-site collections areas have been established to protect the privacy of the employee being tested and to comply with federally mandated testing procedures. In emergency situations, such as post-accident testing, an employee restroom may be used. In such a case, a same gender collector may enter the restroom with the employee but will remain outside the stall until the specimen is collected. No unauthorized persons will be permitted in any part of the designated collection area where specimens are collected or stored.
4. The collection agent shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine specimen bottle and on the chain-of-custody form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:
  - a. To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks so the reservoir of water in the toilet bowl remains blue. There shall be no source of water (e.g. no shower or sink) in the enclosure where urination occurs.

When an individual arrives at the collection site, the collection agent shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection agent shall contact the supervisor of the individual or other SFMTA supervisor who can positively identify the individual. If the individual's identity cannot be established, the collection agent shall not proceed with the collection.

- c. If the individual fails to arrive at the designated collection site at the assigned time, the collection agent shall contact SFMTA's Designated Employer Representative ("DER") to advise her/him of the no-show status
    - d. The collection agent shall ask the individual to remove any unnecessary outer garments, such as a coat or jacket that might conceal items or substances that could be used to tamper or adulterate the individual's urine specimen. Additionally, the collection agent shall request that the individual empty his or her pockets and display any items in them that

could be used to adulterate a specimen. If nothing is there that could be used to adulterate the specimen, the employee may return the items to his/her pockets. The collection agent shall ensure that all personal belongings, such as a purse or briefcase, remain with the employee's clothes, and that these items are secured. The individual may retain his or her wallet.

- e. The individual shall be instructed to wash and dry his/her hands prior to urination.
- f. After washing his/her hands, the individual shall remain in the presence of the collection agent and shall not have access to any water fountain, faucet, soap dispenser, cleansing agent or any other materials that could be used to adulterate the specimen.
- g. The collector shall ensure that the proper chain-of-custody forms are used, as described in Paragraph 2, above.
- h. The collection agent shall provide the individual with a collection container capable of holding at least 45 ml. of urine and direct the employee to go into the room used for urination, provide a specimen of at least 45 ml., not flush the toilet, and return to the collection agent as soon as the employee has completed the void.
- i. In the presence of the donor, the collector shall pour the urine into the two specimen bottles provided, with at least 30 ml. into one bottle for the primary specimen, and at least 15 ml. into the other bottle to be used as the split specimen.
- j. If the individual is unable to provide such a quantity of urine, the collector shall instruct the individual to drink not more than 40 ounces of fluids. Refusal to drink does not constitute a Refusal to Submit to testing. The individual has up to three hours to provide a complete sample using a fresh collection container. The employee may not leave the test area during the three-hour period and will be monitored during that period by testing personnel. If, after three hours, the employee is still unable to provide an adequate specimen, the insufficient specimen shall be discarded, testing discontinued, and the DER notified. The DER shall refer the employee for a medical evaluation by a physician to develop pertinent information concerning whether the employee's inability to provide a specimen constitutes a refusal to test. In the absence of medical justification, the inability to provide a sample will be treated as a Refusal to Submit to testing and have the same consequences as a positive test.
- k. The collector shall measure the temperature of the specimen. The measuring device must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measurement is critical and in no case shall exceed four minutes. If the temperature of the specimen is outside the range of 32°-38°C / 90°-100°F that constitutes a reason to believe that the individual may have altered or substituted the specimen. In that case, another specimen shall be collected under direct observation of a person of the same gender and who is a collection agent or has been appropriately instructed by the collection agent. Both specimens shall be forwarded to the laboratory for testing.



- l. Immediately after the specimen is collected, the collection agent shall also inspect the specimen to determine its color/smell and look for any signs of contaminants. Any unusual findings shall be noted on the chain-of-custody form.
  - m. Whenever there is reason to believe that an individual has Altered or Substituted the specimen, a second specimen shall be obtained as soon as possible under the Direct Observation of a person of the same gender and who is a collection agent or has been appropriately instructed by the collection agent. All specimens suspected of being Adulterated shall be forwarded to the laboratory for testing.
  - n. Both the collection agent and the individual being tested shall keep the specimen in view at all times prior to its being sealed and labeled.
5. The collection agent shall complete the chain-of-custody form, label and secure the specimen container, and prepare the specimen for shipment to the laboratory. Specifically, the collection agent shall place the tamper-evident seals on each bottle, then write the date on the seals. The Covered Employee must initial the seals after they have been affixed on the bottles.
  6. Both bottles shall be shipped to the laboratory in a single shipping container (e.g., plastic bag), together with Copy 1 of the chain-of-custody form.

## Circumstances Authorizing Direct Observation

The following circumstances are the exclusive grounds constituting a reason to believe that the individual may have altered or substituted the specimen. If any of these circumstances exist, it will be necessary to conduct an observed collection.

1. The employee has presented a urine specimen that falls outside the normal temperature range (32°-38°C / 90°-100°F),
2. The original specimen shows signs of tampering, e.g., unusual color, odor or other characteristic.
3. The collector observes materials brought to the collection site or the employee's conduct clear indicates an attempt to tamper with a specimen.
4. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation.
5. The MRO reports that the specimen is Invalid and that there was not an adequate medical explanation for the result.
6. The MRO reported that the original positive, Adulterated, or Substituted test result had to be Cancelled because the Split Specimen analysis could not be performed.
7. As an employer, the SFMTA must direct a collection under Direct Observation of a Covered Employee if the drug test is a return-to-duty test or a follow-up test.

## Direct Observation Procedures

8. The collector must ensure that the observer is the same gender as the employee. The collector must never permit an opposite gender person to act as the observer. The observer can be a different person from the collector and need not be a qualified collector provided that he or she is appropriately instructed by a qualified collector.
9. If someone else is to observe the collection (e.g., in order to ensure a same gender observer), the collector must verbally instruct that person to follow procedures at paragraphs (9) and (10) below. If the collector is the observer, he or she too must follow these procedures.
10. The observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that they do not have a prosthetic device. After the observer has determined that the employee does not have such a device, the observer may permit the employee to return clothing to its proper position for observed urination.
11. The observer must watch the employee urinate into the collection container. Specifically, the observer is to watch the urine go from the employee's body into the collection container

## Breath Alcohol Testing Procedures

These collection procedures shall apply to all types of alcohol testing (e.g., Random, Reasonable Suspicion, Post-Accident)

Breath alcohol testing shall be conducted by a trained Breath Alcohol Technician (BAT). Testing will be conducted in a manner to ensure the greatest amount of employee aural and visual privacy (mobile or clinic facility). Unauthorized access to the testing area is prohibited. One test will be conducted at a time. The BAT will utilize an Evidential Breath Testing (EBT) device authorized by 49 CFR Part 40.

1. Upon arrival at the testing site (whether on or off SFMTA premises) the following procedures will be followed. The Covered Employee will be asked to present picture identification for the BAT, or the supervisor accompanying the employee will be asked to verify the identity of the employee.
2. The procedure will be explained to the Covered Employee and he/she will be asked to sign Block 2 of the alcohol test form (ATF). A refusal to sign the ATF form will be treated as a Refusal to Submit to testing. The employee will be immediately removed from duty, instructed to report to his/her supervisor, and advised to contact the Substance Abuse Professional.
3. The BAT will open a sealed mouthpiece in view of the Covered Employee and attach it to the EBT.
4. The Covered Employee will be instructed to blow into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained.
5. The results will be shown to the employee and printed out of the EBT.
6. If the results are negative (less than 0.02), the BAT will sign in the appropriate space and release the Covered Employee to return to duty. Employees tested under the random testing program will be provided with a return-to-work release form to give to the supervisor.
7. If the screening test results are equal to 0.02 or greater, the BAT will perform a confirmation breath test.
8. The confirmation test must be conducted no less than 15 minutes, but not more than 30 minutes, following the screening test. Between tests, the employee will be instructed not to eat, drink, put anything into his or her mouth, or belch, and must remain with the BAT. The BAT will conduct air blanks until a 0.00 reading is obtained. A new mouthpiece will be provided for the employee. Beginning the confirmation test after 30 minutes has expired does not invalidate the confirmation test results; however, the BAT must document why the confirmation test began after the 30-minute point.
9. If the confirmation test is equal to 0.04 or greater, the DER will be notified, and the Covered Employee's supervisor will be provided written confirmation of the necessity to remove the employee from duty and referred to the SAP. If the confirmation test result is

equal to 0.02 or greater but less than 0.04, the employee is prohibited from performing a Safety-Sensitive Function until his or her next shift, but not less than eight hours from the time of the test, or until another breath test result is less than .02.

10. If the Covered Employee refuses to sign the ATF, provide breath or provide an adequate amount of breath, the test will be terminated and the DER will be notified. This is a Refusal to Submit to testing and will have the same consequences as a positive test. The supervisor will be notified that the employee is not released to return to duty.
11. If a screening or confirmatory test cannot be completed because the Covered Employee cannot produce adequate breath (shy breath), additional attempts will be made. An employee who is unable to provide adequate breath for testing will be subject to a medical examination to determine whether a medical condition exists. If the examining physician determines the employee has a medical condition precluding him/her from providing an adequate amount of breath for testing, the physician shall document the finding for SFMTA's files. If the examining physician finds no medical reason for the inability to provide adequate breath for testing, the findings should be documented, and the employee removed from duty. In the absence of medical justification, the inability to provide adequate breath will be treated the same as a refusal to test.

## Random Testing Procedures

The FTA regulations require random testing for prohibited drugs and alcohol for all Safety-Sensitive employees (Covered Employees). Random testing identifies employees who are using drugs or misusing alcohol but are able to use the predictability of other testing methods to escape detection. More importantly, it is widely believed that random testing serves as a strong deterrent against employees beginning or continuing prohibited drug use and misuse of alcohol at SFMTA. SFMTA has developed procedures for notification and collection to best implement the requirements of the federal rules.

*These procedures answer common questions regarding random testing: Who is tested? Why are only some individuals tested? When and how do the tests occur?*

1. Random drug and alcohol testing applies only to Safety-Sensitive employees. Identification numbers for all Safety-Sensitive employees are included in a selection pool.
2. Random drug and alcohol testing is accomplished by a scientifically valid, tamper-proof, computer-generated selection process. A random list of employee numbers will be generated every month by the Substance Abuse MIS staff. A surplus will be randomized to allow for selected employees who are not available. SFMTA determines that "not available" is limited to employees who are not at work due to vacation, sick leave, disability or scheduled time off. Employees who are unavailable will have their names held, and other attempts will be made to test them until the next random selection list is generated. The MIS Personnel triggers the selection list of the month's Operations and Maintenance employees to be scheduled for testing.
3. Once a list is generated, employee numbers are matched with names and the names are sorted by division. The work schedule for each employee is determined. Testing is then scheduled on an unannounced, weekly basis. Testing is conducted on-site by mobile van.
4. No employee will be removed from the random pool following selection, and every employee will continue to be subject to selection throughout the year. Every employee in the random pool has an equal chance of being selected every time. Employees are only removed from the random pool when they are in rehabilitation programs, permanently transferred to a non-safety-sensitive position, or on extended leave.
5. Random testing will be conducted on all shifts, all times of day, and all days of the week throughout the calendar year. No shift is exempt from testing. The total number of drug tests completed annually must be a minimum of fifty percent (50%) of the eligible Safety-Sensitive employees in the random pool. The total number of alcohol tests completed each year must be a minimum of ten percent (10%) of the number of safety-sensitive employees.
6. Random drug testing may be conducted concurrently with random alcohol testing or at any time while an employee is on duty. Random alcohol testing will be conducted just before the employee is scheduled to perform a Safety-Sensitive Function, while the employee is performing Safety-Sensitive Duties or just after the employee performs a Safety-Sensitive Function.

7. Maintenance and Operations supervisors will be notified which employees have been selected for testing. (See Procedures for Random Test Notification). Employees will be notified to stop work, where to report for testing, and who will relieve them, if necessary. Once an employee is notified of his/her selection, he/she must report immediately for the test. If an employee is not notified, a "Failure to Test as Scheduled" form must be completed and signed by the supervisor.
8. The employee must submit to a drug and/or alcohol test, and sign all necessary forms. Failure to cooperate with the collection procedure in any way constitutes a refusal to test, which is considered the same as a positive test result.
9. The employee will be in a paid status throughout random testing. The employee will be removed from duty if the result of the alcohol tests is positive, when a positive or non-negative drug test result is received, or if the employee Refuses to Submit to testing.
10. If both alcohol and drug tests are given, the breath alcohol test will be performed first. Immediately thereafter, the urine sample will be collected for the drug test.
11. If there is a confirmed breath alcohol test greater than or equal to .02 and less than .04, the employee *will be relieved from duty* immediately until the start of his/her next shift, but not less than eight (8) hours following administration of the test, or until the employee's alcohol concentration measures less than .02.
12. If there is a confirmed positive breath alcohol test (equal to .04 or above), and/or a confirmed positive, Refusal to Submit to testing, Adulterated, or Substituted drug test, the employee will be removed from duty and directed to the Substance Abuse Professional (SAP) for an evaluation and referral for rehabilitation or education. The employee cannot return-to-work until he/she has been released by the SAP, completed the return-to-work agreement and successfully completed a return-to-duty test.
13. Employees who test positive for drugs or alcohol, refuse testing, or whose drug test has been Adulterated or Substituted, will be disciplined in accordance with applicable memoranda of understanding.

## Procedures for Random Test Notification

1. The MIS staff person will trigger the selection list of the month's Operations and Maintenance employees to be scheduled for testing.
2. The Testing Coordinator will notify the collector of the time and location for testing.
3. Notification of Covered Employees

The Substance Abuse Program will notify the employee's Supervisor/Manager, Division Dispatcher or Inspector.

a. Notification of Operators:

- Notification will be by the Division Dispatcher if the operator pulls out of the Division at any time during the work day.
- Notification will be by an Inspector, or Inspector Manager, if the operator does not pull out of the Division.

Time of notification must be documented.

b. Notification of Non-Platform Employees:

- The Deputy Director of Operations' designee will inform the immediate supervisor of any non-platform employee who is selected for testing the day of the test. This supervisor will then make the notification to the employee.

Time of notification must be documented.

Non-Platform Notification Tree

<b>Notifier</b>	<b>Employee</b>
Director of Transportation	Director of Transit
Director of Transit	Deputy Transit Manager
Deputy Transit Manager	Manager IV
Manager IV	Manager II
Manager II	Transit Manager IV
Transit Manager IV	Transit Manager III
Transit Manager III	Transit Manager II
Transit Manager II	Transit Manager I
Transit Manager I	9139 Supervisors

c. Notification of Maintenance Employees:

- Notification will be by the supervisor/manager on site. Supervisors will be informed the day of the test. Notification will be at the latest possible time to minimize the possibility of employee's learning of testing prior to reporting to work or prior to the collection van arriving on site.

The time of notification must be documented.

- d. Reporting: The employee shall report to the test site immediately.
4. The SFMTA requires that the "Random Testing Notification Form" (see attached) be completed by the supervisor and signed by the employee.
5. The employee cannot "go off sick" or on vacation or leave work after notification.
6. Collection personnel shall report "no shows" to the Testing Coordinator.
7. The Testing Coordinator shall confirm with the supervisor or Central Control that the employee was notified.
8. The Substance Abuse Manager shall notify Operations and Maintenance if an employee fails to report for testing after notification.
9. An employee who fails to report for testing shall be removed from duty immediately. This will be treated as a Refusal to Submit to testing and have the same consequences as a positive test. He/she cannot return to duty until cleared by the SAP.





## TESTING NOTIFICATION FORM

EMPLOYEE NAME: \_\_\_\_\_ ID# \_\_\_\_\_

TIME OF NOTIFICATION: \_\_\_\_\_ DATE OF TEST: \_\_\_\_\_

TYPE OF TEST:

Random  
 Drug only  Both (Drug and Alcohol)

Follow Up  Post Accident  Reasonable Suspicion  
(All tests above require Drug and Alcohol)

LOCATION OF TEST SITE: \_\_\_\_\_ WORK LOCATION: \_\_\_\_\_ PHONE: \_\_\_\_\_

\_\_\_\_\_, under federal regulations for drug and alcohol testing of  
(Employee's Name)

safety-sensitive employees, you are being tested for the presence of prohibited drugs and alcohol. Your signature indicates that you have read and understood the given instructions, agree to take the test and authorize the release of your test results to the San Francisco Municipal Transportation Agency (SFMTA).

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### SAFETY-SENSITIVE EMPLOYEES STATEMENT TO EMPLOYEES REGARDING REFUSAL TO SUBMIT TO DRUG AND/OR ALCOHOL TESTING

If you refuse to submit to a drug and/or alcohol test, refuse to sign the necessary forms, or follow instructions, it will be considered a violation of the testing procedure. You will be removed from duty and referred to the Substance Abuse Professional for assessment. This information will be forwarded to the Director of Transit or designee.

\_\_\_\_\_  
Employee's Signature Date

\_\_\_\_\_  
Notifier's Signature Date

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### RETURN-TO-DUTY RELEASE

\_\_\_\_ Employee has completed all testing requirements and is released to duty.  
\_\_\_\_ Employee has not completed all testing requirements, or has tested positive for alcohol between 0.02-0.039 and is **NOT** released to return-to-duty:  
    \_\_\_\_ For eight (8) hours or until next shift.  
    \_\_\_\_ Until released by Substance Abuse Professional (SAP).

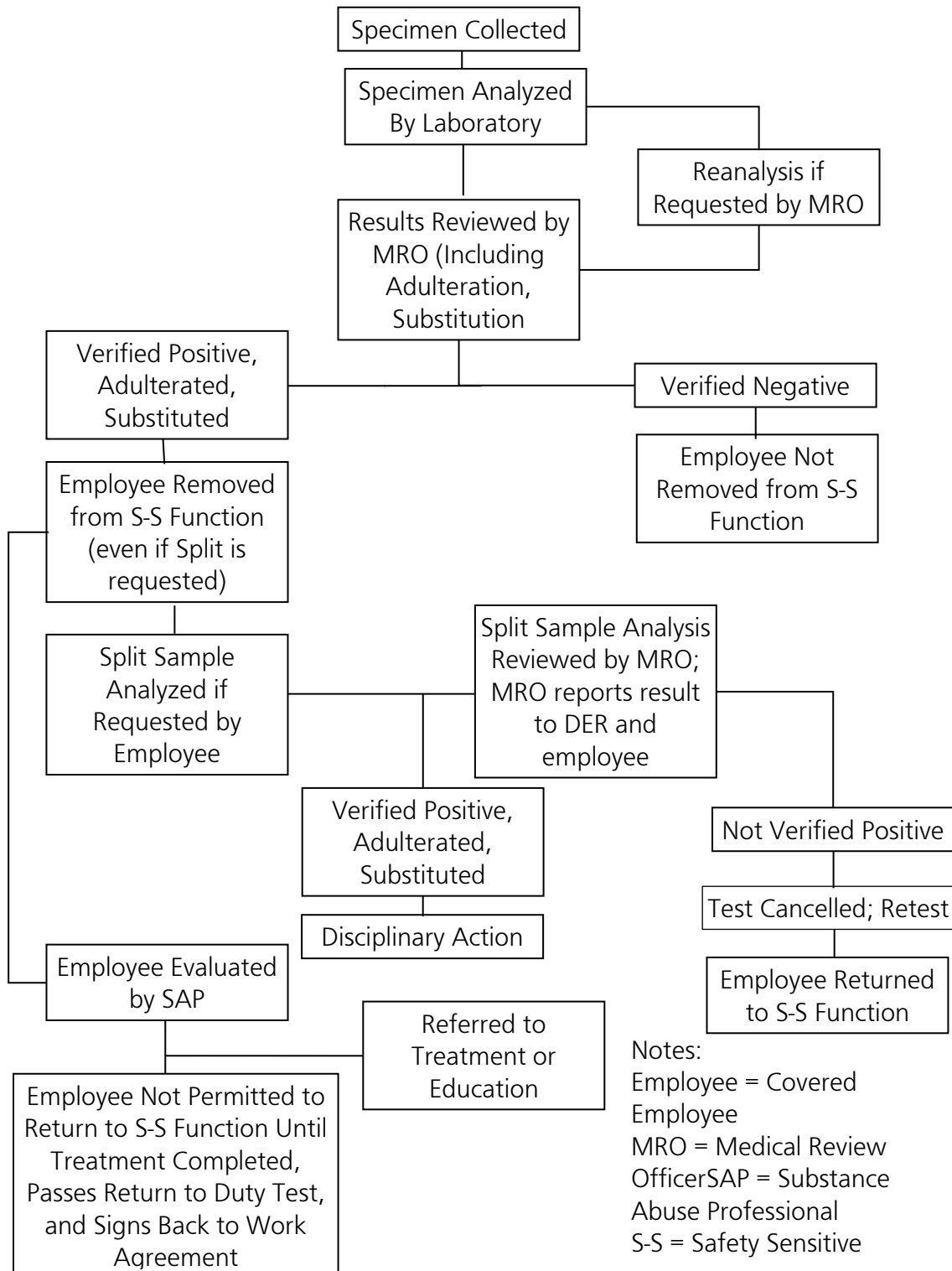
\_\_\_\_\_  
Collector's Signature Date & Time Finished

1. White - SAP

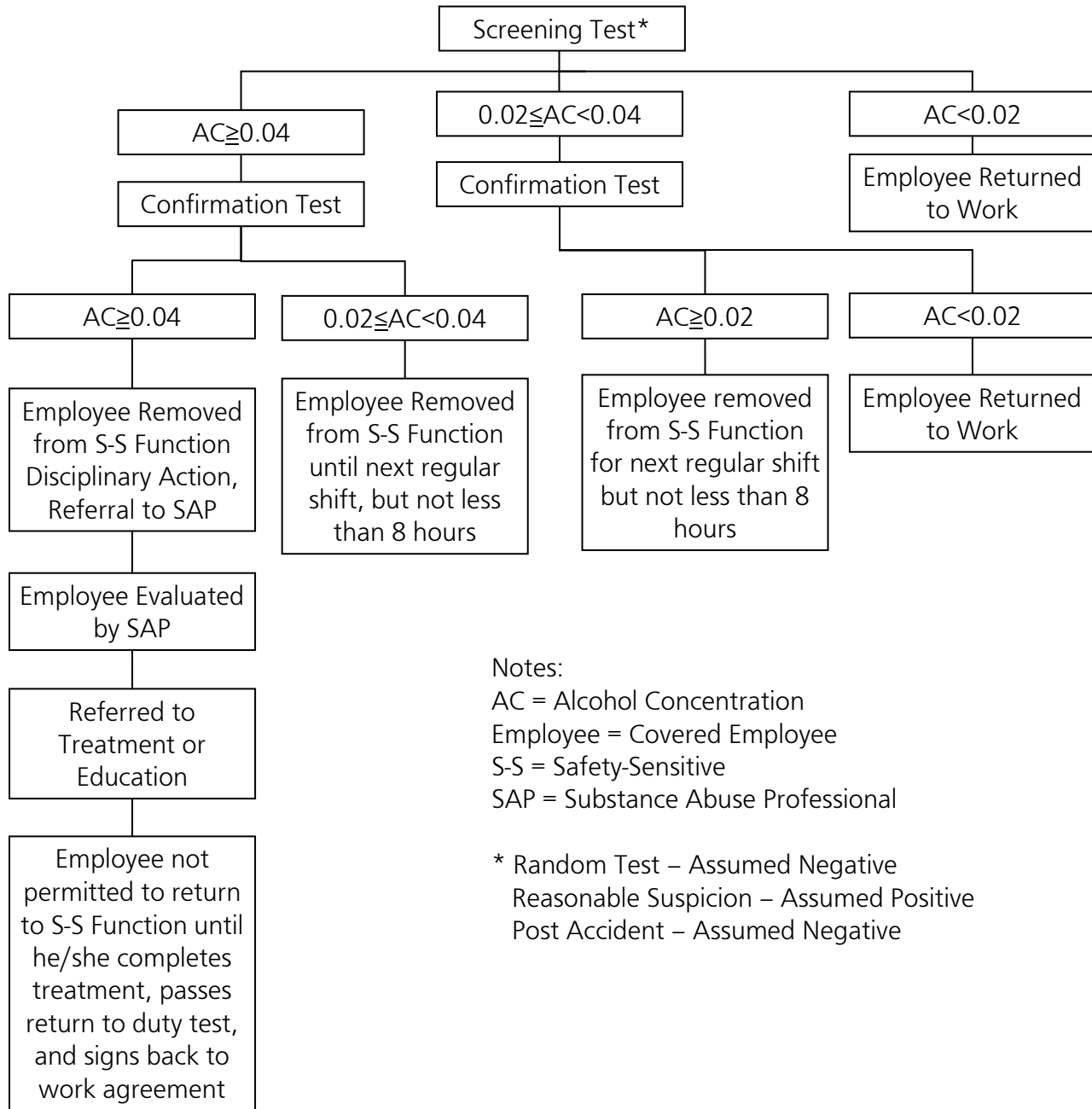
2. Yellow - Supervisor

3. Pink - Employee

## Drug Testing Process for All Tests



## Alcohol Testing Process for All Tests (see 49 CFR § 655.35a)



**Notes:**

- AC = Alcohol Concentration
- Employee = Covered Employee
- S-S = Safety-Sensitive
- SAP = Substance Abuse Professional

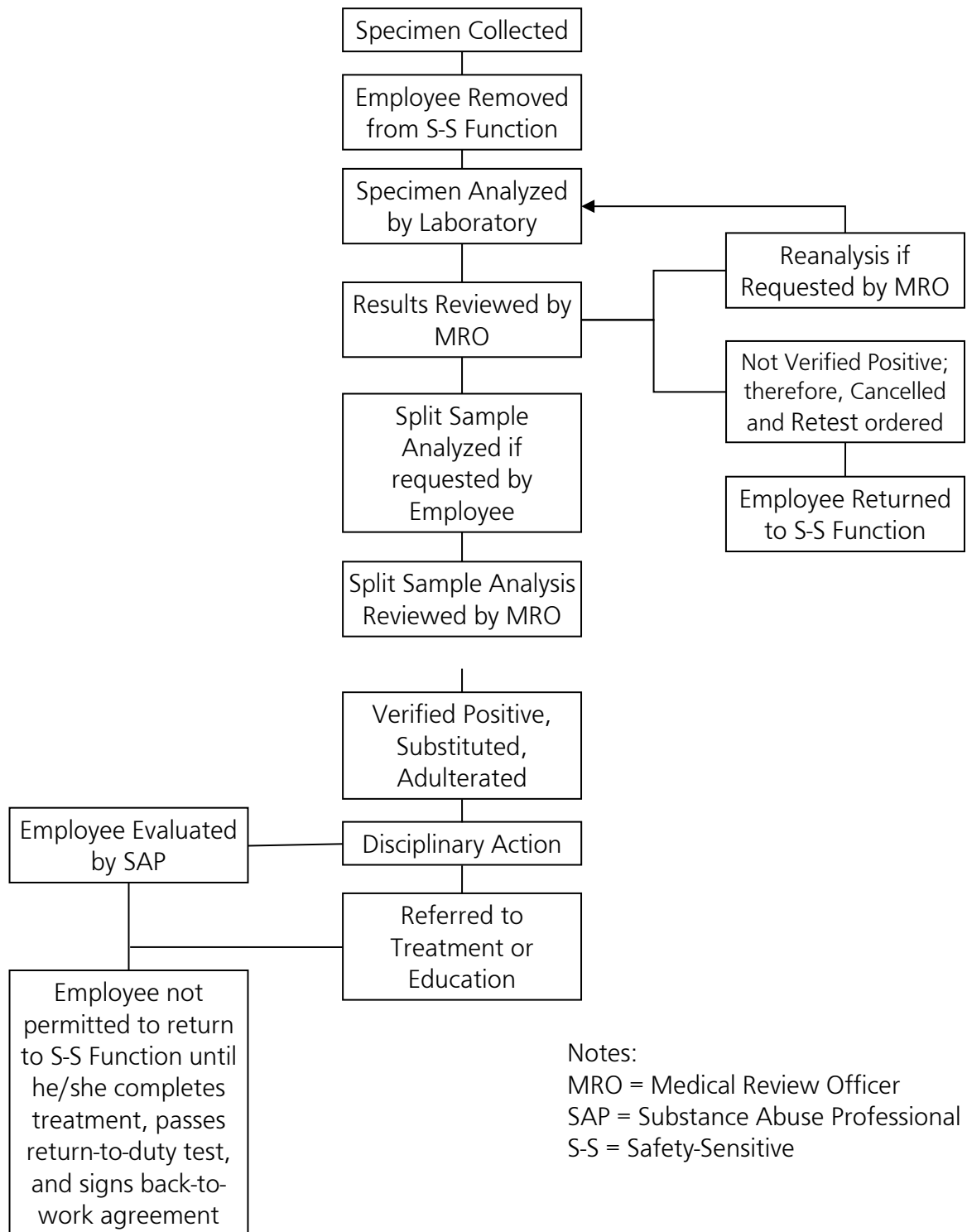
- \* Random Test – Assumed Negative
- Reasonable Suspicion – Assumed Positive
- Post Accident – Assumed Negative

## Reasonable Suspicion Testing Procedures

The FTA regulations also require a Covered Employee to submit to a test when the employer has a reasonable suspicion that the employee has used a prohibited drug or has misused alcohol. The request to undergo a reasonable suspicion test must be based on specific, articulable observations concerning appearance, behavior, speech, or body odor of the Covered Employee. A trained supervisor must make these observations.

1. Supervisors and managers receive training in order to identify behaviors that might be indicators of drug use and/or alcohol misuse. Training includes the procedures for how to deal with employees suspected of drug use and/or alcohol misuse.
2. If one trained supervisor observes behavior that might be indicative of drug use and/or alcohol misuse, he/she directs the employee to stop work and escorts the employee to an area to be questioned and observed in private.
3. The supervisor completes the Supervisor's Alcohol and/or Substance Abuse Report. The supervisor must ensure that the employee does not continue to operate in a Safety-Sensitive job after having been identified for reasonable suspicion testing.
4. If there is a decision to test based on observable symptoms, the employee is ordered to submit to a drug and/or alcohol test and is taken to the collection site.
5. The employee is on paid status until the test collection is completed. SFMTA requires that the employee may not perform Safety-Sensitive work pending the outcome of the drug test. Since the employee is believed to be under the influence of drugs and/or alcohol, arrangements will be made to have him/her transported home.
6. If there is a confirmed breath alcohol test equal to 0.02 or greater but less than 0.04, the employee will be relieved from his or her Safety-Sensitive Function immediately for a minimum of eight hours.
7. If there is a confirmed positive breath alcohol test (equal to 0.04 or above), refusal to submit to testing, or confirmed positive drug test, the employee will be directed to the Substance Abuse Professional (SAP) for an evaluation and referral for rehabilitation or education.
8. Employees who test positive for drugs or alcohol, refuse to submit to a test, or whose test result is Adulterated or Substituted will be disciplined in accordance with applicable memoranda of understanding.

## Drug Testing Process for Reasonable Suspicion



## Post-Accident Testing Procedures

The FTA regulations require testing for prohibited drugs and alcohol in the case of certain public transportation accidents. Post-accident testing is mandatory for accidents where there is a loss of life and for other non-fatal accidents.

1. The inspector ensures that all injured people receive proper medical care.
2. The supervisor determines whether the accident meets FTA criteria (see "Post-Accident Testing Chart").
3. The employee will be taken to the collection site and tested as soon as practicable following the accident. The tests should be performed within two hours of the accident. If tests are not performed within two hours, the inspector must document the reasons why the test was not performed. If an alcohol test cannot be administered within eight hours, the test must be cancelled and the inspector shall document the reasons why the test was not conducted. If a drug test cannot be performed within 32 hours after the accident, the inspector shall document the reasons why the test was not conducted.
4. The employee should remain readily available for alcohol testing up to eight hours post-accident and for drug testing, up to 32 hours after the accident, including notifying his/her supervisor of his/her location, or he/she may be deemed to have refused to submit to testing.
5. If the employee is injured and needs medical treatment, provisions will be made to perform an alcohol test within eight hours and a drug test within 32 hours of the accident.
6. The employee is prohibited from using alcohol for eight hours after the accident, prior to testing.
7. Pending the results of a drug test, the employee will be returned to his/her safety-sensitive position if medically cleared to be returned to work. In the interests of safety, the SFMTA will transfer all employees to a non-safety-sensitive status pending the results of a drug test.
8. If the alcohol test is positive (equal to .04 or greater), the employee must be removed from duty and referred to the SAP. If the test is equal to 0.02 or greater but less than 0.04, the employee will be removed from duty for at least eight hours.
9. If the employee refuses to submit to a test or if the test is confirmed positive, the employee will be removed from duty and referred to the SAP.
10. Discipline for positive, adulterated, or substituted drug and/or alcohol tests, and refusals to submit to testing will be imposed in accordance with applicable memoranda of understanding.

## Post-Accident Alcohol & Drug Testing Criteria

A post-accident test shall be conducted when the incident meets the criteria listed below. A post-accident test is NOT a probable cause or reasonable suspicion test.

### Definitions

**Accident** means an occurrence associated with the operation of a revenue service vehicle, if as a result–

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
- (3) With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, "disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative; or
- (4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from revenue service.

For accidents *not involving a fatality*, there are two categories:

#### Road Surface Vehicles

The first category is for "road surface" vehicles, including buses, vans, and automobiles.

An accident is an occurrence resulting in a vehicle—either a public transportation vehicle or another vehicle—suffering disabling damage and having to be towed away.

#### Rail Vehicles

The second category includes rail cars, trolley buses and trolley cars, and vessels. This category would include other kinds of transit conveyances operated by FTA recipients, such as people movers, inclines, and monorails. (Cable cars fit into this category.)

An accident is deemed to have occurred to such a vehicle when the occurrence results in the public transportation vehicle being removed from revenue service.

This includes an accident when the vehicle is in operation but occurring when the vehicle is not operating in revenue service (for example, in the yard), if it results in

damage that would result in a comparable vehicle being withdrawn from revenue service or results in a delay in the vehicle placed into or returned to revenue service.

## Who is Tested?

### Fatality

If an accident involving a fatality has occurred, a test must be given to those surviving covered employees operating the vehicle at the time of the accident. Tests should also be administered to any other covered employee who SFMTA determines could have contributed to the accident.

### Bodily Injury or Property Damage

#### Road Surface Vehicles

With respect to non-fatal accidents involving road surface vehicles, a Covered Employee operating the vehicle at the time of the accident would have to be tested unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident.

#### Rail Vehicles

With respect to rail vehicles, the employer must test Covered Employees operating the vehicle at the time of the accident, unless the employer determines that an employee's performance can be completely discounted as a contributing factor to the accident.

### **Examples**

- *The second car operator would not have to be tested for a vehicle accident caused exclusively by the operator of the lead car, who was operating the train.*
- *Both operators would have to be tested if a person in the second car was hit by the doors which are operated by the second car operator, and is then struck by the train operated by the lead car operator.*

### Other Possible Tests

Other employees who may have contributed must also be tested; for example, a dispatcher who routes two trains onto the same track, which then collide. In that situation, three persons would be tested: the two train operators and the dispatcher who routed the trains.



## Post-Accident Testing Chart

Type of Accident (Associated with the Operation of a Vehicle)	Requirements for Coverage	Test Surviving Covered Employee operating the Vehicle at time of Accident?	Test Other Safety- Sensitive Employee?
Fatal (all types of vehicles)	None beyond loss of human life in accident	In all cases	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)
Non-fatal (buses, vans, electric buses, or automobiles)	<u>Either</u> injury requiring immediate medical treatment away from accident scene  <u>or</u> disabling damage to transit vehicle or other vehicle	<u>Unless</u> employer determines that Covered Employee's performance can be completely discounted as a contributing factor to the accident	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)
Non-fatal (rail cars, trolley cars, trolley buses, or vessels)	<u>Either</u> injury requiring immediate medical treatment away from accident scene <u>or</u> public transportation vehicle is removed from revenue service	<u>Unless</u> employer determines that Covered Employee's performance can be completely discounted as a contributing factor to the accident	<u>If</u> employer determines that Covered Employee's performance could have contributed to accident (includes Maintenance personnel)

## Post-Accident Drug and Alcohol Testing Questionnaire

1. DID THIS ACCIDENT INVOLVE A FATALITY? **YES or NO**  
**If "Yes," drug and alcohol tests are required of driver\* and anyone else who could have contributed to the accident.**

2. WAS THERE AN INJURY FOR WHICH THE INDIVIDUAL RECEIVED IMMEDIATE MEDICAL TREATMENT AWAY FROM THE SCENE? **YES or NO**  
**If "Yes," drug and alcohol tests are required of driver\* and anyone else who could have contributed to the accident.**

3. IF ACCIDENT INVOLVED A ROAD SERVICE VEHICLE (DIESEL BUS, VAN, AUTOMOBILE), WAS THERE DISABLING DAMAGE TO **ANY** VEHICLE (i.e., WAS ANY VEHICLE TOWED AWAY, INCLUDING NON-SFMTA VEHICLE)? **YES or NO**

"Disabling damage" means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated.

Disabling damage does not include:

- Damage which can be remedied temporarily at the scene of the occurrence without special tools or parts;
- Tire disablement without other damage even if no spare tire is available; or
- Damage to headlights, tail-lights, turn signals, horn, or windshield wipers that makes them inoperative.

**If "Yes," drug and alcohol tests are required of driver and anyone else who could have contributed to the accident.**

4. IF ACCIDENT INVOLVED A RAIL VEHICLE (LRV, TROLLEY BUS, CABLE CAR), DID THE RAIL VEHICLE HAVE TO BE REMOVED FROM SERVICE (EVEN IF IN THE YARD)?  
**YES or NO**

**If "Yes," drug and alcohol tests are required of driver\* and anyone else who could have contributed to the accident.**

5. CAN THE DRIVER'S PERFORMANCE BE COMPLETELY DISCOUNTED AS A CONTRIBUTING FACTOR TO THE ACCIDENT? **YES or NO**

If "Yes," explain why

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**If the answer to question 5 is "Yes," no test is required of a driver or operator, except in cases involving a fatality.**

6. COULD ANY OTHER SAFETY-SENSITIVE EMPLOYEE HAVE CONTRIBUTED TO THE ACCIDENT (e.g. MECHANIC)? **YES or NO**

If "Yes," explain why

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7. WAS TESTING PERFORMED WITHIN TWO HOURS AFTER THE ACCIDENT? **YES or NO**

If "No," explain why

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8. IF THE ANSWER TO NO.7 IS "NO", WAS TEST PERFORMED WITHIN EIGHT HOURS AFTER THE ACCIDENT? **YES or NO**

If "No," explain why

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**\* The term "driver" includes an operator of a non-revenue vehicle if that operator is required to hold a commercial driver's license to operate the vehicle involved.**

## Return-to-Duty and Follow-Up Testing

Before any Covered Employee can be allowed to return to duty to perform a Safety-Sensitive Function following a verified positive drug test, a positive breath alcohol test, a Refusal to Submit to a test, or engaging in conduct prohibited by the regulations regarding alcohol misuse, the employee must first be evaluated by a Substance Abuse Professional and pass the return-to-duty test. The return-to-duty and follow-up drug testing will be performed under Direct Observation as described in 49 CFR Section 40.67.

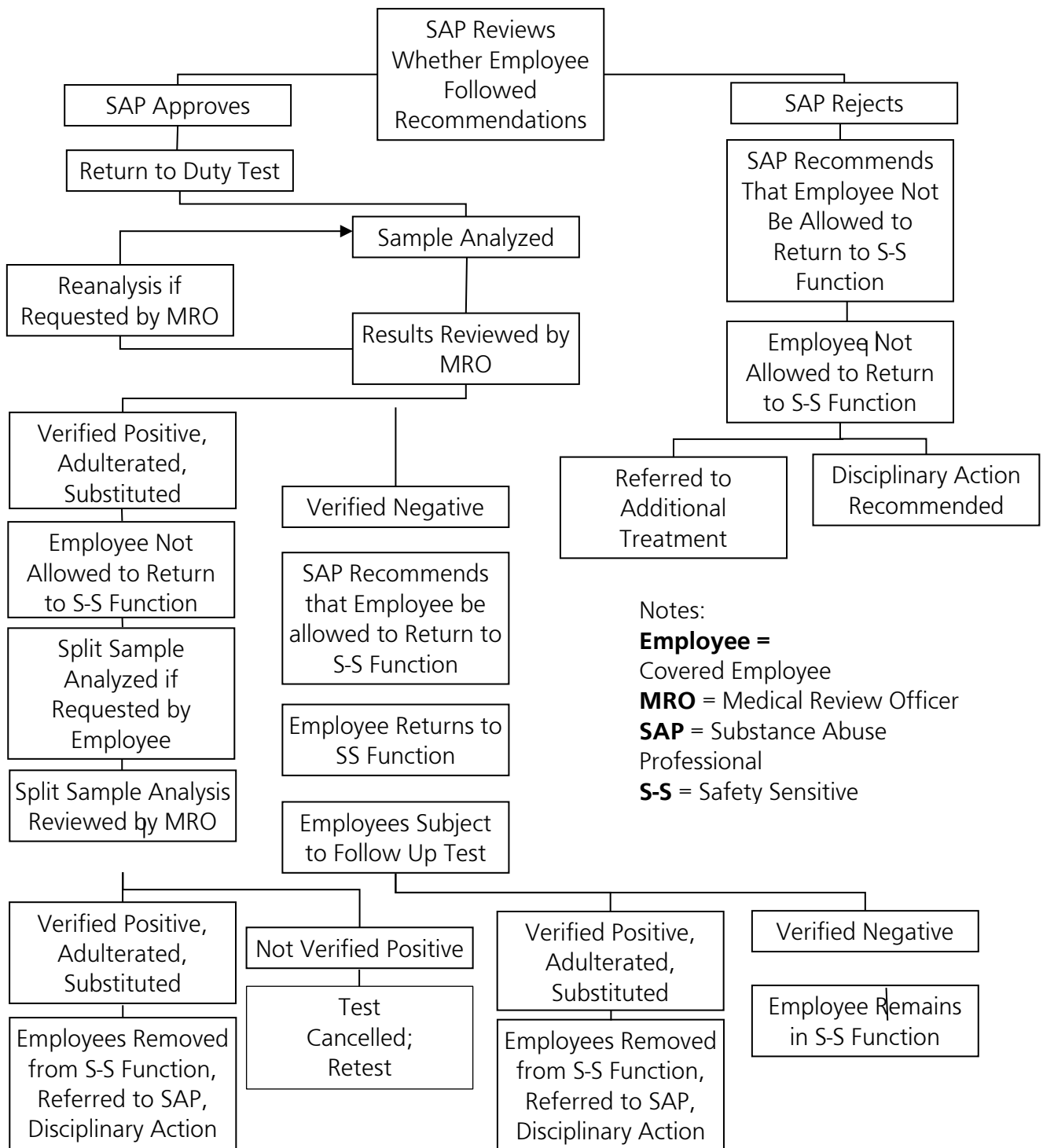
### Return-to-Duty Testing equal to .04% Alcohol Test and/or Positive Drug Test

1. When the SAP determines that a Covered Employee is ready to return to Safety-Sensitive Duty after completing any recommended rehabilitation, the employee must take and pass a drug and/or alcohol return-to-duty test. If the return-to-duty test is positive or constitutes a Refusal to Submit to testing, it counts as a second positive. If the test result is Cancelled or Invalid, the employee will have to be retested.
2. SFMTA requests that the Covered employee notify the SAP 14 days in advance of his/her expected return-to-duty date. The SAP will schedule the employee for the follow-up evaluation and the return-to-duty test.
3. Discipline will be imposed consistent with applicable memoranda of understanding.

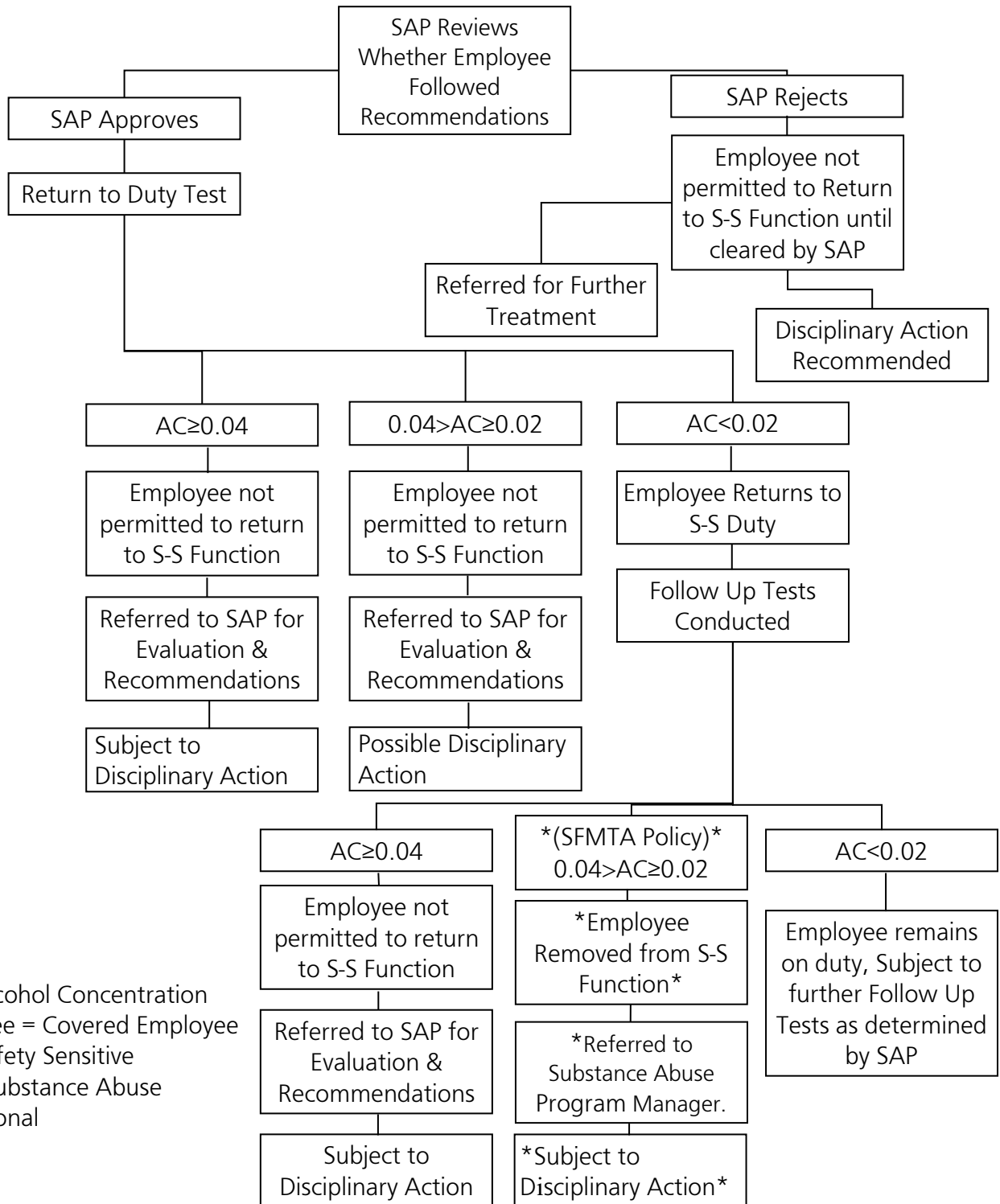
### Follow-Up Testing

1. Once a Covered Employee returns to Safety-Sensitive Duty, he/she shall be subject to unannounced follow-up testing for at least 12 months, but not more than 60 months. The type, frequency and duration of the follow-up testing shall be determined by the SAP; however, a minimum of six tests shall be performed during the first 12 months after the employee has returned to duty. Follow-up testing does not exclude an employee from the random testing program. This means that an employee is subject to random testing as well as follow-up testing.
2. Follow-up testing prescribed while an individual was working for another employer must be continued by SFMTA if SFMTA elects to hire the individual.
3. If a Covered Employee tests positive on a follow-up test or Refuses To Submit to such testing, discipline will be imposed in accordance with applicable memoranda of understanding.

## Process for Direct Observation Drug Testing



## Process for Return-to-Duty and Follow-Up Alcohol Testing



Notes:  
 AC = Alcohol Concentration  
 Employee = Covered Employee  
 S-S = Safety Sensitive  
 SAP = Substance Abuse Professional

## Pre-Employment Testing

1. The FTA regulations require that all applicants for employment in Safety-Sensitive positions, individuals being transferred to Safety-Sensitive positions from non-Safety-Sensitive positions, and employees returning from leaves over 90 days when out of the random pool must be given pre-employment drug tests prior to performing Safety-Sensitive Functions.
2. Applicants may not be hired or assigned to Safety-Sensitive Functions unless they pass the test (negative test result).
3. Applicants must be informed in writing of the testing requirements prior to conducting the test. SFMTA will require each applicant to sign a form acknowledging that they know that their urine will be tested for cocaine, PCP, amphetamines, marijuana, and opioids. Note: The form that they sign prominently displays the message **"YOUR APPLICATION WILL BE CONSIDERED INCOMPLETE IF THIS NOTICE IS NOT SIGNED AND DATED."** A testing history must be requested from previous employers for the two years prior to application.
4. The Human Resources Division will notify the Substance Abuse Program of the number of applicants to be tested and their anticipated start date. A minimum of five working days are required to set up testing appointments. The Substance Abuse Program notifies Human Resources of the scheduled date, time, and location for testing.
5. It is the responsibility of the applicant to report to the collection site at the time and day scheduled.
6. Drug tests will be administered by the SFMTA's service agents. Tests may be conducted at an off-site facility when prearranged by Human Resources.
7. If an applicant's test is determined to be Negative Dilute, Invalid or is Cancelled, the applicant must be retested.
  - If the applicant's initial test was negative dilute and the retest result is also negative dilute the applicant will not be hired and can reapply in 6 months.
8. The Substance Abuse Program will be notified of all testing results and these results will be immediately transmitted to Human Resources.
9. SFMTA has determined that applicants who Refuse to Submit to testing, or who test positive for drugs, will not be considered for a SFMTA Safety-Sensitive job for five years.
10. An applicant whose pre-employment test results are negative will continue through the hiring process for the Safety-Sensitive position.
11. An applicant must begin his or her Safety-Sensitive Function within 90 days of receipt of the test results by the employer. Delays beyond 90 days necessitate a new test. A verified negative pre-employment drug test must be received before the employee is placed on the payroll or permitted to perform Safety-Sensitive Functions. The applicant must also receive any required orientation and training before performing such work.

## Transfer Testing

1. An employee who is being considered for transfer to a Safety- Sensitive position from a non-Safety-Sensitive position will be required to undergo a drug test.
2. An employee with a confirmed positive, Adulterated, or Substituted drug test, as certified by the MRO, will be disqualified from immediate transfer and referred to the SAP. No discipline will be initiated as a result of the positive test.

An employee who tests positive or whose test is Adulterated or Substituted may reapply after six months if he/she has successfully completed the SAP recommendations.

If a transferred employee has not performed Safety-Sensitive Duties for 90 consecutive calendar days from the date of the pre-transfer drug test, and the employee has not been in the random selection pool during that period, the employee will be required to take another pre-employment drug test with a negative result.

## Post-Leave Testing

If a Covered employee has been on leave status and has not performed Safety-Sensitive Duties for 90 consecutive calendar days or been in the random selection pool during that period, the employee will be required to take another pre-employment drug test before returning to his or her Safety-Sensitive Function.



## Split Specimen Testing Procedures

1. At the time of collection, the urine specimen will be split and poured into two specimen bottles. One specimen (Primary Specimen) will contain at least 30 ml. of urine, and the other one (Split Specimen), a minimum of 15 ml. of urine.
2. Both specimens are sent to the DHHS-certified laboratory under contract with SFMTA, but only the Primary Specimen is analyzed. The Split Specimen is stored in case the Covered Employee requests that the Split Specimen be analyzed.
3. The Covered Employee has the option of having an analysis of the Split Specimen if his or her test result is positive, Adulterated, or Substituted. The Split Specimen analysis is performed at a separate DHHS-certified laboratory.
4. The Covered Employee has 72 hours after being notified by the Medical Review Officer (MRO) of a verified positive to request a test of the Split Specimen. Requests after 72 hours will only be accepted if the delay was due to documented facts that were beyond the control of the employee.
5. The Covered Employee must notify the MRO that he/she wants to test Split Specimen.
6. Pursuant to past SFMTA practice, laboratory fees are the responsibility of the Covered Employee.
7. For a positive drug test - If the second DHHS-certified laboratory identifies the presence of the drug(s) (without regard to cutoff concentrations), the Split Specimen will be considered "Reconfirmed." If the test fails to reconfirm the presence of the drug(s), the second laboratory will then conduct validity testing. If the second laboratory fails to confirm the presence of the drug(s) and adulterants, the test will be Cancelled. The MRO will report a reconfirmed test or a test that fails to reconfirm to the employee and SFMTA. A split test that fails to reconfirm will also be reported to DOT.
8. For an Adulterated or Substituted test – If the second laboratory reconfirms the Adulteration or Substitution, the original test result will remain the same. If the laboratory fails to reconfirm, the test will be Cancelled.
9. If the Split Specimen is unavailable or appears insufficient for testing, the MRO will Cancel the test. This applies to all test results that are being challenged – drug positives, Adulterations, and Substitutions. If the test is Cancelled for this reason, the MRO will direct the DER to send the employee for another test that will be performed under direct observation. No advance notice will be given to the employee.

## **EXHIBIT G**



### NOTIFICATION OF POSITIVE TEST

TO: Aleta Washington-Williams, Manager IV, Woods Division

FROM: Beverly Tilson, Substance Abuse Program Manager [Redacted]

EMPLOYEE NAME: Zhekun Chen ID# [Redacted]

TEST DATE: 10/26/23 TEST TYPE: Random

NOTIFICATION OF POSITIVE: 11/1/23

CIRCUMSTANCES:

- A. Alcohol test over 0.04
- B. Confirmed positive drug test
- C. Other \_\_\_\_\_

✧ PLEASE ACKNOWLEDGE RECEIPT AND DATE EMPLOYEE WAS REMOVED FROM SAFETY SENSITIVE DUTY.

cc: David Garcia, HR – Employee & Labor Relations  
Shana Dines, HR – Employee & Labor Relations  
MJ Johnson, HR – Employee & Labor Relations



DATE: 11/1/23

TO: Zhekun Chen, CAP ID #7041  
9163 – Transit Operator

FROM: Aleta Washington-Williams  
9174 – Manager IV

SUBJECT: **POSITIVE DRUG TEST (PROBATIONARY TRAINEE)**

Dear Zhekun Chen,

You submitted to a **Random** urine drug test on **10/26/23**. The Medical Review Officer (MRO) confirmed the test as being positive for **Marijuana** on **11/1/23**. As a result, the San Francisco Municipal Transportation Agency (SFMTA) relieved you from safety sensitive duty.

Please be advised that the U.S. Department of Transportation (DOT) regulations require SFMTA to release testing information about you to prospective employers who request such information, provided you consent in writing to the release of your testing information.

If you are considering applying at another transit agency, the DOT requires you to contact a Substance Abuse Professional and follow her/his recommendations prior to being eligible for consideration for employment in any safety-sensitive position within the transit industry. A list of Substance Abuse Professionals, in your area, who are familiar with the DOT regulations are enclosed for your assistance.

*I acknowledge receipt and understanding of this memorandum.*

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<i><b>Print Name</b></i>	<i><b>Signature</b></i>	<i><b>Date</b></i>
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cc: David Garcia, HR – Employee & Labor Relations  
Shana Dines, HR – Employee & Labor Relations  
MJ Johnson, HR – Employee & Labor Relations



London Breed, Mayor

Gwyneth Borden, Chair  
Amanda Eaken, Vice Chair  
Stephanie Cajina, Director  
Steve Heminger, Director

Fiona Hinze, Director  
Sharon Lai, Director  
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

Certified Mail Tracking #9589 0710 5270 1156 8945 95  
USPS Tracking #9590 9402 7110 1251 4328 27

11/1/23

Via Certified Mail

Zhekun Chen

Dear Zhekun Chen:

**RE: POSITIVE DRUG TEST (PROBATIONARY TRAINEE)**

You submitted to a **Random** urine drug test on **10/26/23**. The Medical Review Officer (MRO) confirmed the test as being **Positive** for **Marijuana** on **11/1/23**.

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If you are considering applying at another transit agency, the DOT requires you to contact a Substance Abuse Professional and follow her/his recommendations prior to being eligible for consideration for employment in any safety-sensitive position within the transit industry. A list of Substance Abuse Professionals, in your area, who are familiar with the DOT regulations are enclosed for your assistance.

Sincerely,



Beverly Tilson  
Substance Abuse Program Manager

Attachment: List of Substance Abuse Professionals

- cc: David Garcia, HR – Employee & Labor Relations
- Shana Dines, HR – Employee & Labor Relations
- MJ Johnson, HR – Employee & Labor Relations



**SUBSTANCE ABUSE PROFESSIONALS**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Test Results**

**Date Results Transmitted:** 2023-11-01 9:21 AM

**Transmitted By:** PM

**Participant/Donor:** ZHEKUN CHEN

**SSN/EID:** [REDACTED]

**CCF/Specimen ID:** [REDACTED]

**Specimen Type:** URINE

**Company:** San Francisco Muni Trans Agency

**Location:** San Francisco Muni Trans Agency

**Lab Account Number:** [REDACTED]

**Reason for Test:** RANDOM

**Date Specimen Collected:** [REDACTED]

**Laboratory:** [REDACTED]

**Collection Site:** [REDACTED] -

**Collection Site Phone:** [REDACTED]

**Program:** DOT

**Agency:** FTA

**Date MRO Received CCF Copy 2:** [REDACTED]

**Date Test Verified by MRO:** [REDACTED]

**Test Results**

**Panel - DOT DRUG PANEL 5000**

<u>Drug</u>	<u>Results</u>
Amphetamines	NEGATIVE
Cocaine	NEGATIVE
Marijuana	<b>POSITIVE</b>
Opioids	NEGATIVE
Phencyclidine (PCP)	NEGATIVE

MY DETERMINATION/VERIFICATION IS: **POSITIVE**

**Certified Medical Review Officer**

[REDACTED]

Signature \_\_\_\_\_ [REDACTED]

The information contained in this message is CONFIDENTIAL and is for the intended addressee only. Any unauthorized use, dissemination of the information, or copying of this message is prohibited. If you believe you have received the message in error, please contact our Client Services Department at [REDACTED] and delete the message without copying or disclosing it.



FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

1111 Newton Street, Gretna, LA 70053  
450 Southlake Boulevard, Richmond, VA 23236

Phone: 800.433.3823  
Fax: 504.361.8298

LAB NUMBER

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, ID No.

Facility Number

B. MRO Name, Address, Phone No., and Fax No.

SAN FRANCISCO MUNICIPAL TRAINING  
1 SOUTH VAN NESS AVENUE  
2TH FLOOR  
SAN FRANCISCO, CA 94103  
415-701-5039 415-701-4383

C. Donor SSN, Employee I.D., or CDL State and No.

D. Specify Testing Authority:  HHS  NRC Specify DOT Agency:  FMCSA  FAA  FRA  FTA  PHMSA  USCG

E. Reason for Test:  Pre-employment  Random  Reasonable Suspicion/Cause  Post Accident  Return to Duty  Follow-up  Other (specify)

F. Drug Tests to be Performed:  THC, COC, PCP, OPI, AMP  THC & COC Only  Other (specify)

G. Collection Site Address:

Collector Phone: (Write phone number in boxes if not pre-printed.)

Collector Number

STEP 2: COMPLETED BY COLLECTOR (make remarks when appropriate).

URINE  ORAL FLUID

COLLECTION:  Split  Single  None Provided, Enter Remark.

URINE: Collector reads urine temperature within 4 minutes. Temperature between 90° and 100° F?  Yes  No, Enter Remark  Observed, Enter Remark

ORAL FLUID: Split Type:  Serial  Concurrent  Subdivided Each Device Within Expiration Date?  Yes  No  Volume Indicator(s) Observed

REMARKS:

STEP 3: Collector affixes seal(s) to bottle(s)/tube(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 2 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY TEST FACILITY

I certify that the specimen given to me by the donor identified in the certification section on Copy 2 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable federal requirements.

SPECIMEN BOTTLE(S)/TUBE(S) RELEASED TO:

Collector Name (First, MI, Last)

Date Collected (Mo/Dy/Yr)

Signature of Collector

Time Collected:  AM  PM

Name of Delivery Service  
Fedex

STEP 5: COMPLETED BY DONOR

I certify that I provided my specimen to the collector; that I have not adulterated it in any manner; each specimen bottle/tube used was sealed with a tamper-evident seal in my presence; and that I have signed this form and on the label affixed to each specimen bottle/tube is correct.

Signature of Donor

(PRINT) Donor's Name (First, MI, Last)  
ZHEKUN CHEN

Date (Mo/Day/Yr)  
10 26 12

Email address Daytime Phone No. Evening Phone No. ( ) Date of Birth 10 13 1983 (Mo/Day/Yr)

After the Medical Review Officer receives the test results for the specimen identified by this form, he/she may contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY ON THE FORM. TAKE COPY 5 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

URINE  ORAL FLUID

In accordance with applicable federal requirements, my verification is:

NEGATIVE  POSITIVE for:  DILUTE  
 REFUSAL TO TEST because - check reason(s) below:  TEST CANCELLED  
 ADULTERATED (adulterant/reason):  SUBSTITUTED  
 OTHER:

REMARKS:

Signature of Medical Review Officer (PRINT) Medical Review Officer's Name (First, MI, Last) Date (Mo/Day/Yr)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable federal requirements, my verification for the split specimen (if tested) is:

RECONFIRMED for:  TEST CANCELLED  
 FAILED TO RECONFIRM for:

REMARKS:

Signature of Medical Review Officer Page 180 (PRINT) Medical Review Officer's Name (First, MI, Last) Date (Mo/Day/Yr)





## **EXHIBIT H**

CSF Job Appointment Summary

Zhekun Chen (Zhekun)

Emp

Job Appointment Summary

Eff Date	Appt Date	Action	Description	Payroll Status	Job Code	Union Code	Empl Class	Exmpt Cat	Full/Part Time							Cert Date	Ctywd Snrty Date	Company Seniority Date	Vacation Anniversary Date	Sick Anniversary Date
11/03/2023	06/12/2023	TER	Release from Probation-Discip	Terminated	9163	253	PCS	NA	F							06/02/2023	06/02/2023	06/12/2023	06/12/2023	06/12/2023
06/12/2023	06/12/2023	HIR	New Hire	Active	9163	253	PCS	NA	F							06/02/2023	06/02/2023			

Save

Return to Search

Notify

## **EXHIBIT I**

**From:** [Eng, Sandra \(CSC\)](#)  
**To:** [Gordon, Mika \(CSC\)](#)  
**Cc:** [Aldana, Elizabeth \(CSC\)](#); [Holmes, Lavena \(CSC\)](#)  
**Subject:** Fwd: Notice of Receipt - Zhekun Chen  
**Date:** Tuesday, January 09, 2024 2:23:19 AM

---

Hi Mika,

Please forward this as additional information for this appeal to MTA.

Sincerely,

Sandra

Get [Outlook for iOS](#)

---

**From:** [REDACTED]  
**Sent:** Monday, January 8, 2024 2:02:47 PM  
**To:** Eng, Sandra (CSC) <sandra.eng@sfgov.org>  
**Subject:** Re: Notice of Receipt - Zhekun Chen

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

 [9-4-18\\_item\\_10.3\\_substance\\_abuse\\_policy\\_handbook.pdf](#)

Hi Sandra,

Below is my explanation for my hearing:

As a bus driver I know I must be extra careful, and safety is my priority. I am recognizing the importance of safety in my role as a bus driver and am taking responsibility for the situation. I felt very sorry to the community and my family that I tested positive for Marijuana with a level of 36 ng/mL.

I wanted to be clarifying that I'm not addicted to any drugs including Marijuana but have experienced a situation where I tested positive for marijuana due to an accidental intake. As a bus driver for 10 years with consistent negative drug test results annually, especially in light of the recent positive test result due to the accidental consumption of a marijuana-containing sleep gummy that my wife gave to me. In the future, I will be cautious with over-the-counter or any consumable

products, especially those that might contain substances that can lead to a positive drug test. I will always check labels and be aware of what I am consuming.

Also, there is no violation reported in the Clearinghouse, because pursuant to U.S. Department of Transportation (DOT) regulations the test cutoff concentration for Marijuana metabolites (THCA) is 50 ng/mL (see SFMTA Policy and Procedures Handbook on page 34, highlighted) and my test result is below the cutoff concentration (I'm tested positive with a level of 36 ng/mL). While my test result is below the cutoff and doesn't indicate a need for SAP as per DOT standards. Second, in the SFMTA policy and procedures handbook (page 36, highlighted) it indicated for Pre-Employment (90-Day Rule) can return to duty after a follow-up testing.

Lastly, I am taking responsibility, learning from the experience, and making positive changes can contribute to personal growth and rebuilding trust. I am requesting to removal of restrictions and reapply for my position as a bus operator.

Please let me know if you have any questions.

Best,  
Zhekun

---

**From:** Gordon, Mika (CSC) <shamika.gordon@sfgov.org>  
**Sent:** Friday, December 29, 2023 4:22 PM  
**To:** [REDACTED]  
**Subject:** Notice of Receipt - Zhekun Chen

Dear Zhekun Chen:

Please find the attached notification regarding the appeal you filed. This shall serve as formal notification.

Sincerely,



## CONFIRMATION OF RECEIPT AND ACKNOWLEDGMENT

I acknowledge receipt of the San Francisco Municipal Transportation Agency's Substance Abuse Program Policy approved by the SFMTA Board of Directors on September 4, 2018 and its Drug and Alcohol Testing Procedures. I understand that it is my responsibility to familiarize myself with the program requirements and seek appropriate guidance or explanation if needed. I also understand that I am to sign this form and return it immediately.

---

Employee's Signature

---

Employee's Name (Printed)

---

Date

Please complete and return this form to:

Substance Abuse Program  
One South Van Ness Avenue, Sixth Floor  
San Francisco, CA 94103





SUBSTANCE ABUSE PROGRAM

# **POLICY AND PROCEDURES HANDBOOK**

**Substance Abuse Program  
One South Van Ness Avenue, Sixth Floor  
San Francisco, CA 94103  
Tel: (415) 701-5018  
Fax: (415) 701-4381**

**August 21, 2018**

## Memorandum

DATE: August 22, 2018  
TO: All Safety-Sensitive Employees  
San Francisco Municipal Transportation Agency  
FROM: Edward D. Reiskin  
Director of Transportation  
SUBJECT: Federal Mandated Alcohol and Drug Testing Program

The enclosed revised Substance Abuse Policy and Procedures Handbook was approved by the San Francisco Municipal Transportation Board of Directors on August 21, 2018.

The Substance Abuse Policy and Procedures Handbook governs the implementation of 49 CFR Part 40 and 655 as it pertains to the SFMTA.

Drug and Alcohol Testing includes the following types of testing for all Safety-Sensitive Employees: Pre-employment, Reasonable Suspicion, Post-Accident, Random, Return-to-Duty, and Follow-Up. The substances tested for are: Marijuana, Amphetamines, Opioids (codeine, heroin, morphine, oxycodone, oxymorphone, hydrocodone, hydromorphone), Phencyclidine (PCP), and Cocaine. Enclosed you will find the procedures for each type of testing as well as a list of the safety-sensitive positions that are required to abide by the policy.

We encourage all employees who are experiencing problems with drugs and alcohol or other personal problems to contact the SFMTA CARE Employee Assistance Program (EAP) at 1.800.834.3773 for **free** and **confidential** assessment and referral services. If you have any questions regarding the revisions in the policy and procedures, you can contact the SFMTA Substance Abuse Program at 415.701.5018.

As part of the SFMTA dedication to providing public transit service that is safe for all employees and customers alike I thank you for complying with the policy and procedures in this handbook.

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 10-093

WHEREAS, Since February 15, 1994, the U.S. Department of Transportation (DOT) has required recipients of federal assistance to have an alcohol and drug testing program and an employee training program in place for employees performing safety-sensitive functions, which requirements are embodied in 49 CFR Parts 40 and 655 (the "federal regulations"); and

WHEREAS, The federal regulations require the governing body of a direct recipient of Federal financial assistance from the Federal Transit Administration to adopt a policy statement on alcohol misuse and prohibited drug use in the workplace by employees performing safety-sensitive functions; and

WHEREAS, On December 13, 1994, in accordance with the federal regulations, the Public Transportation Commission (PTC), predecessor to the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors, adopted a Substance Abuse Policy; including procedures for testing safety-sensitive employees for prohibited drugs and alcohol; and

WHEREAS, On March 24, 1998, the PTC adopted Resolution No. 98-025, which approved the updated Substance Abuse Policy and Procedures to reflect changes in the federal regulations; and

WHEREAS, On August 20, 2002, the MTA Board of Directors adopted Resolution No. 02-092, which approved an updated Substance Abuse Policy and Procedures to reflect changes in the federal regulations; and


WHEREAS, DOT amended the federal regulations regarding observed collections, which regulations have been effective since August 1, 2009; and

WHEREAS, The DOT also amended the federal regulations to include additional prohibited drugs in the testing panel and lower threshold levels for determining a positive test as to certain prohibited drugs, which regulations will become effective October 1, 2010; and

WHEREAS, The Substance Abuse Program has updated the Substance Abuse Policy and Procedures to comply with the revisions to the federal regulations; now, therefore be it

RESOLVED, That the SFMTA Board of Directors adopts the updated Substance Abuse Policy and Procedures to comply with the most recent amendments to the federal regulations including observed collections, additional prohibited drugs in the testing panel and lower threshold levels for determining a positive test as to certain prohibited drugs.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of JUN 15 2010.

  
Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



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SFMTA

Substance Abuse Program

# **SFMTA SUBSTANCE ABUSE PROGRAM POLICY**



## 1.0 Policy

\*The San Francisco Municipal Transportation Agency ("Agency" or "SFMTA") operates the San Francisco Municipal Railway. SFMTA is dedicated to providing public transit service within the City and to other parts of the region that is convenient, effective, safe, and efficient. SFMTA employees are our most valuable resource. It is our policy (1) to take appropriate action to assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) to foster and maintain a drug and alcohol-free environment for all employees and patrons; (3) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to voluntarily seek professional assistance whenever personal problems, including alcohol or drug use, may adversely affect their ability to perform their assigned duties.\*

To achieve the goal of a substance-free workplace, this policy incorporates three integrated components:

**A. Prevention through education and training:** \*Education and training will consistently communicate and clarify this policy to all employees, assist employees in recognizing substance abuse problems and in finding solutions to those problems.\*

**B. Detection, deterrence and enforcement:** Under Federal law, all Safety-Sensitive employees are subject to pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up drug and alcohol testing. Applicants for Safety-Sensitive positions will not be hired nor will current employees be assigned to Safety-Sensitive Functions unless they pass applicable drug tests.

**C. Treatment and opportunities for rehabilitation:** \*Alcohol and drug abuse are recognized as diseases that can be treated. The Agency recognizes that our employees are the Agency's most important resource and encourages employees to take advantage of a voluntary rehabilitation program, to seek professional assistance through SFMTA's Peer Assistance Program or the SFMTA CARE Employee Assistance Program (EAP) prior to testing positive for drugs or alcohol, without fear of discipline.\*

\*Portions of this Policy marked with a single asterisk (\*) are not strictly FTA-mandated, but reflect current Agency employment policy.

## 2.0 Purpose

The purpose of this Policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs (as defined below). This policy complies with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has adopted 49 CFR Part 655, which mandates urine drug and breath alcohol testing for employees performing Safety-Sensitive Functions. These



regulations also prevent Performance of Safety-Sensitive Functions when there is a positive, adulterated, or substituted test result, or other rule violation (e.g., refusal to test). The U.S. Department of Transportation (DOT) has also adopted 49 CFR Part 40, which sets standards for collecting and testing urine and breath specimens. This Policy incorporates these federal requirements for employees performing safety-sensitive functions, as well as other provisions as noted.

In addition, DOT has published 49 CFR Part 29, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. The City adopted a Drug-Free Workplace policy for all of its employees in 1989. California passed a similar version of the federal law, the Drug-Free Workplace Act of 1990 (Gov't Code §§ 8350 et seq.). This Policy reiterates the requirements of the federal regulations; these requirements will be enclosed by double asterisks (\*\*).

If any provision of an existing Agency policy, rule or resolution is inconsistent or in conflict with any provision of this Policy or the DOT/FTA Rules, this Policy and the FTA Rules shall take precedence; if any provision of this Policy is inconsistent or in conflict with the FTA Rules, the FTA Rules shall take precedence.

### **3.0 Consequences of Misuse/Abuse**

The cost of substance misuse/abuse is devastating to society, the workplace, the family and individuals. Two thirds of all homicides are committed by people who use drugs or alcohol prior to the crime. Two-thirds of all Americans will be involved in an alcohol-related accident during their lifetimes.

The medical costs of illnesses related to substance misuse/abuse are staggering. Each year 30,000 people will die due to alcohol-caused liver disease. Another 10,000 will die due to alcohol-induced brain disease or suicide.

Besides the very real human costs just described, substance-abusing employees create very real business costs and legal liabilities for their employers:

Direct and measurable costs, such as the additional health care benefits claimed by substance abusers.

Less tangible and difficult-to-measure costs, such as the negative impact on employee morale or the diminished creativity of substance-abusing employees.

Potential costs or "liabilities," such as the potential costs of a lawsuit filed by an injured party after an accident caused by an impaired employee.

\*SFMTA's Substance Abuse Program has several components to promote a drug-free workplace and comply with FTA regulations:

An expanded Substance Abuse Policy;





SFMTA

# Substance Abuse Program

An employee education program to alert employees to the dangers of alcohol and other drugs;

An education program for management, required for all supervisors, to assist them in understanding SFMTA policy, knowing available resources, and carrying out their responsibilities as they relate to employee substance abuse;

A voluntary Peer Assistance Program to encourage early intervention;

A contract for EAP services;

A Substance Abuse Professional to work with employees who test positive.

## 4.0 Definitions

**Accident:** An occurrence associated with the operation of a vehicle, if as a result:

- (a) An individual dies; or
- (b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the Accident; or
- (c) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
- (d) 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 operation.

**Adulterated Specimen:** A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol. (The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.)

**Cancelled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.

**Contractor:** A person or organization that provides a safety-sensitive 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.



SFMTA

## Substance Abuse Program

**Covered Employee:** A person, including an applicant or transferee, who performs or will perform a safety-sensitive function for SFMTA. This includes certain volunteers, as defined in Section 5.1.

**Dilute Specimen:** A specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Direct Observation:** Collection of a urine specimen performed while under the observation of a Collector of the same gender as the employee providing the specimen, under the circumstances and according to the provisions set forth in 49 CFR Section 40.67.

**DOT:** The United States Department of Transportation.

**Employer:** A recipient or other entity that provides mass transportation service or which performs a safety-sensitive function for such recipient or other entity. This term includes sub-recipients, operators, and contractors.

**Evidential Breath Testing Device (EBT).** A device that is approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the .02 and .04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

**FTA:** The Federal Transit Administration, an agency of DOT.

**Invalid Drug Test:** The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

**Legally Prescribed Drug:** A controlled substance (on Schedules II through IV of the Controlled Substance list) that is authorized for patient usage by a physician or medical practitioner.

**Medical Review Officer (MRO):** A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

**Negative Dilute:** A test result that is negative but meets the dilute criteria.

**Non-negative Drug Test:** A test result found to be Adulterated, Substituted, Invalid, or positive for drug/drug metabolites.

**Performing a Safety-Sensitive Function:** A covered employee is considered to be performing a safety-sensitive function at any time he or she is actually performing, ready to perform, or immediately available to perform such functions.



SFMTA

# Substance Abuse Program

**Primary Specimen:** In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing.

**Refusal to submit:** A refusal to take a drug test as set out in 49 CFR Section 40.191 or an alcohol test as set out in 49 CFR Section 40.261.

**Safety-Sensitive Function (Safety-Sensitive Duty):** Any of the following duties, when performed by employees of recipients, sub-recipients, operators or contractors:

- (a) Operating a revenue service vehicle, whether or not in revenue service;
- (b) Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (c) Controlling dispatch or movement of a revenue service vehicle;
- (d) Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service; or
- (e) Carrying a firearm for security purposes.

**Service Agents:** Any person or entity, other than an employee of the employer, who provides services specified in 49 CFR Part 40 to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs, laboratories, MROs, and SAPs. See Exhibit D for a list of Service Agents hired or under contract to SFMTA.

**Split Specimen:** In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

**Substance Abuse Professional (SAP):** A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

**Substituted Specimen:** A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

## 5.0 Applicability

### 5.1 Covered Employees

This Policy applies to all Covered Employees, including paid part-time employees, who perform or could be called upon to perform any Safety-Sensitive Function. The Policy also applies to volunteers who: (a) are required to hold a commercial driver's license to operate a vehicle, or (b) Perform a Safety-Sensitive Function for SFMTA and receive remuneration in excess of his or her actual expenses incurred while engaged in the



volunteer activity. Additionally, this policy applies to contractors who perform Safety-Sensitive Functions. For both drug and alcohol testing, this Policy applies during off-site lunch periods or breaks when an employee is scheduled to return to work.

A list of Safety-Sensitive positions is attached as Exhibit B. Participation in the prohibited substance testing program as described below is a requirement of each covered employee and therefore a condition of employment.

## 5.2 Other SFMTA Employees

**\*\*All SFMTA employees are subject to the provisions of the Drug-Free Workplace Act of 1988 (see Sections 6.1 of this Policy).\*\*** \*Visitors, vendors, and contractor employees on transit premises will not be permitted to conduct transit business if found to be in violation of the provisions of Section 8.1 of this Policy.\*

## 5.3 Contractors

Employees of SFMTA contractors who perform Safety-Sensitive Duties for SFMTA are subject to the same FTA and DOT regulations. However, these contractors are not required to implement the provisions of the Drug-Free Workplace Act of 1988.

## 6.0. Opportunities for Rehabilitation

To promote a drug- and alcohol-free workplace, this Policy includes two types of rehabilitation programs, voluntary rehabilitation and rehabilitation after a positive test result or Refusal to Submit to a test.

### 6.1. Voluntary Rehabilitation

\*An employee who has a drug and/or alcohol abuse problem and has not been selected for reasonable suspicion, random or Post-Accident testing or is not involved in a disciplinary proceeding, may voluntarily refer her or himself to the SFMTA's EAP or the Peer Assistance Program for evaluation and referral to a therapeutic program. The services of the EAP are also available to non-covered employees. Confidentiality, job security and promotional opportunities will be protected and no disciplinary action will be taken for such self-referral. The EAP will evaluate the employee and make a specific recommendation regarding the appropriate treatment. When an employee voluntarily refers her or himself for treatment, the employee may be eligible for sick leave and disability benefits. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.\*

### 6.2. Rehabilitation after a Positive Alcohol or Drug Test, or Refusal

If there is a verified positive drug test result, a confirmed positive alcohol test result, or a Refusal to Submit to a test, the substance abuse professional (SAP) will determine if an employee should be referred for substance abuse treatment or education services.