

AGENDA ITEM 3 B
Information Item

MEMORANDUM

DATE: December 4, 2025

TO: El Dorado County Transit Authority

FROM: Ryan Robinson, Safety Program Manager

SUBJECT: Draft of Updated Drug and Alcohol Policy

REQUESTED ACTION:
BY MOTION,

No Action. Information Item.

BACKGROUND

The Federal Transit Administration (FTA) requires all transit agencies receiving federal funding to establish and maintain a Drug and Alcohol Testing Program in compliance with 49 CFR Parts 40 and 655. These regulations mandate that all covered employees performing safety-sensitive functions be subject to drug and alcohol testing to ensure the highest level of safety in public transportation operations. While the El Dorado County Transit Authority (El Dorado Transit) currently maintains a Drug and Alcohol Policy, it has become outdated and no longer fully aligns with current FTA regulatory guidance. As part of a comprehensive review, staff used the FTA's official Drug and Alcohol Policy Builder and related guidance tools to recreate the policy, ensuring full compliance with Parts 40 and 655 as amended, as well as the Drug-Free Workplace Act of 1988. The newly drafted policy reflects current federal requirements and modernizes El Dorado Transit's overall Drug and Alcohol Program structure.

DISCUSSION

The updated Drug and Alcohol Policy fully aligns El Dorado Transit with current FTA regulations (49 CFR Parts 40 and 655). The policy clearly defines covered employees, prohibited substances, testing procedures, and the consequences for violations. It establishes required testing categories, such as pre-employment, random, reasonable suspicion, post-accident, return-to-duty, and follow-up, and reinforces the agency's zero-tolerance stance for positive or refused tests. The policy also outlines procedures for prescription drug use and voluntary self-referral while designating the Safety Program Manager as the contact for the Drug and Alcohol Program. Both current and proposed policies are included in the agenda packet. A redline version is not included due to the complete recreation of the policy. The updated policy to ensure continued compliance and uphold El Dorado Transit's commitment to a safe, drug-free workplace.



EL DORADO TRANSIT



Drug and Alcohol Policy

Draft

Prepared by:

**El Dorado County Transit Authority
6565 Commerce Way
Diamond Springs, CA 95619
(530) 642-5383
www.eldoradotransit.com**

This Page Intentionally Left Blank

Table of Contents

1.	Purpose of Policy	3
2.	Covered Employees	3
3.	Prohibited Behavior	4
4.	Consequences for Violations.....	4
5.	Circumstances for Testing.....	5
6.	Testing Procedures	7
7.	Test Refusals	8
8.	Voluntary Self-Referral.....	8
9.	Prescription Drug Use.....	9
10.	Contact Person	9
	Attachment A: Covered Positions.....	10

1. Purpose of Policy

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

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

Certain portions of this policy are not FTA-mandated but reflect El Dorado County Transit Authority's policy. These additional provisions are identified by **bold text**.

In addition, DOT has published 49 CFR Part 32, implementing the Drug-Free Workplace Act of 1988, which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

All El Dorado County Transit Authority employees are subject to the provisions of the Drug-Free Workplace Act of 1988.

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. An employee who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify the Safety Program Manager in writing no later than five days after such conviction.

Employees must abide by the terms of this policy as a condition of employment.

2. Covered Employees

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

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

- Operating a revenue service vehicle, in or out of revenue service
- Operating a non-revenue vehicle requiring a commercial driver's license
- Controlling movement or dispatch of a revenue service vehicle
- Maintaining (including repairs, overhaul and rebuilding) of a revenue service vehicle or equipment used in revenue service
- Carrying a firearm for security purposes

See Attachment A for a list of covered positions by job title.

3. Prohibited Behavior

Use of illegal drugs is prohibited at all times. Prohibited drugs include:

- Marijuana
- Cocaine
- Phencyclidine (PCP)
- Opioids
- Amphetamines
- Fentanyl

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

All covered employees are prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform his or her safety-sensitive function, he or she must take an alcohol test with a result of less than 0.02 prior to performance.

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

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

4. Consequences for Violations

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and provided with contact information for Substance Abuse Professionals (SAPs).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of their next regularly scheduled duty period (but for not less than eight hours) unless a retest results in the employee's alcohol concentration being less than 0.02.

Zero Tolerance

Per El Dorado County Transit Authority policy, any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test will be terminated from employment.

5. Circumstances for Testing

Pre-Employment Testing

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions.

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

A covered employee or applicant who has previously failed or refused a DOT drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements. All El Dorado County Transit Authority employees are subject to this category of testing as part of the agency's Drug and Alcohol Program.

Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when El Dorado County Transit Authority has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained company official on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty. Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. All El Dorado County Transit Authority employees are subject to this category of testing as part of the agency's Drug and Alcohol Program.

Post-Accident Testing

Covered employees shall be subject to post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by El Dorado County Transit Authority using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

- (1) The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident
- (2) One or more vehicles incurs disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by El Dorado County Transit Authority using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. All El Dorado County Transit Authority employees are subject to this category of testing as part of the agency's Drug and Alcohol Program.

Random Testing

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

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

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

A covered employee may only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

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

6. Testing Procedures

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

Dilute Urine Specimen

If there is a negative dilute test result, El Dorado County Transit Authority will conduct one additional retest. The result of the second test will be the test of record.

Dilute negative results with a creatinine level greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL require an immediate recollection under direct observation (see 49 CFR Part 40, section 40.67).

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. El Dorado County Transit Authority guarantees that the split specimen test will be conducted in a timely fashion.

7. Test Refusals

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

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by El Dorado County Transit Authority.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to provide a specimen for a drug or alcohol test. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient specimen for a drug or alcohol test without a valid medical explanation.
- (6) Fail or decline to take a second drug test as directed by the collector or El Dorado County Transit Authority.
- (7) Fail to undergo a medical evaluation as required by the Medical Review Officer (MRO) or El Dorado County Transit Authority's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine drug test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

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

8. Voluntary Self-Referral

Any employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the Safety

Program Manager who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from his/her safety-sensitive function and will not be allowed to perform such function until successful completion of a prescribed rehabilitation program.

9. Prescription Drug Use

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to the Safety Program Manager. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

10. Contact Person

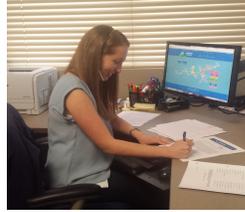
For questions about El Dorado County Transit Authority's anti-drug and alcohol misuse program, contact the Safety Program Manager.

Attachment A: Covered Positions

- **Operations Manager**
- **Safety Program Manager**
- **Planning & Marketing Manager**
- **Maintenance & Facilities Supervisor**
- **Equipment Technician I**
- **Equipment Technician II**
- **Maintenance Technician**
- **Custodian**
- **Transit Operations Supervisor**
- **Transit Dispatcher**
- **Transit Operator (Bus Operator)**



EL DORADO TRANSIT



Drug and Alcohol Policy

Adopted February 1, 2018

Prepared by:

**El Dorado County Transit Authority
6565 Commerce Way
Diamond Springs, CA 95619
(530) 642-5383
www.eldoradotransit.com**

This Page Intentionally Left Blank

EL DORADO COUNTY TRANSIT AUTHORITY

ARTICLE 2 – DRUG AND ALCOHOL POLICY

A. PURPOSE

1. The El Dorado County Transit Authority (El Dorado Transit) provides public transit and paratransit services for the residents of the Western Slope of El Dorado County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, El Dorado Transit declares that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
2. Additionally, this policy establishes guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
3. Any provisions set for the in this policy that are included under the sole authority of El Dorado Transit and are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of El Dorado Transit will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety sensitive employees (full-time, part-time, or extra-help) when performing safety sensitive duties. El Dorado Transit employees that do not perform safety sensitive functions are also covered under this policy under the sole authority of El Dorado Transit. See Attachment A for a list of employees and the authority under which they are included.

A safety sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and transit employee who operates a vehicle that requires a Commercial Driver's License to operate. Maintenance

functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions that perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident means an occurrence associated with the operation of a vehicle even when not in revenue service: if as a result:

- a) An individual dies;
- b) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c) One or more vehicles incur disabling damage as the result of the occurrence and are 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, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

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 amount of an endogenous substance.

Alcohol means the intoxicating agent in a beverage, including alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration is expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40 et. seq.

Aliquot is a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Canceled Test is a drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Confirmatory Drug Test is a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test is a second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee under FTA Authority means an employee who performs a safety sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Covered Employee Under El Dorado Transit Authority is an employee, applicant, or transferee that will not perform a safety sensitive function as defined by FTA but is included under El Dorado Transit's own authority. (See Attachment A).

Designated Employer Representative (DER) An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen. A urine specimen with creatinine and specific gravity values that is lower than expected for human urine.

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, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT) A device approved by the NHTSA for the evidentiary testing of breath at the 0.02 and the 0.04 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.

Initial Drug Test: (Screening Drug Test) is test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

Invalid Result The result reported by a Department of Health & Human Services (HHS) - certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted results cannot be established for a specific drug or specimen validity test.

Laboratory is any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit Detection (LOD) is the lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Medical Review Officer (MRO) means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative Result the result reported by HHS certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-Negative Test Result is a urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant is a substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function) means a covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive Result is the result reported by an HHS-Certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Prohibited Drug is Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40 et. seq., as amended.

Reconfirmed is the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing is the result reported by an HHS-Certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles are all transit vehicles that are used for passenger transportation service.

Safety-Sensitive Functions Employee duties identified as:

- 1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service
- 2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Driver's License (CDL)
- 3) Maintaining a revenue service vehicle or equipment used in revenue service.
- 4) Controlling the movement of a revenue service vehicle and
- 5) Carrying a firearm for security purposes.

Split Specimen Collection is a collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP) is a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or a state licensed marriage and family therapist, drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted Specimen is a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

Test Refusal

An employee refuses a test if the employee:

1. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
2. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test;
3. Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen;
5. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test as directed by the employer and/or collector;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO, or as directed by the DER;
8. Fails to cooperate with any part of the testing process;
9. If the MRO reports that there is verified adulterated or substituted test result;
10. Failure or refusal to sign Step 2 of the alcohol testing form.
11. Failure to follow the observer's instructions during an observed collection including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine the presence of any type of prosthetic or other device that could be used to interfere with the collection process.
12. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
13. Admit to the collector or MRO that the specimen has been adulterated or substituted.
14. Failure to remain readily available for testing following an accident.

Vehicle is a bus, electric bus, van, automobile, rail car, trolley care, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified Negative Test is a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified Positive Test is a drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity Testing is the evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or El Dorado Transit officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances include:
 - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988, as amended, any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15, as amended, except a legal prescription. This includes, but is not limited to: marijuana, amphetamines, , opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.
- 2) Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

- 3) Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA Authority be tested for marijuana, cocaine, amphetamines, , opioids, and phencyclidine as described in Section H of this policy. El Dorado Transit employees will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.
- 4) Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- 5) Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under El Dorado Transit authority, a non-DOT alcohol test can be performed any time an employee is on duty.

F. PROHIBITED CONDUCT

- (1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40 et. seq., as amended.
- (2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.
- (3) El Dorado Transit shall not permit any employee to perform or continue to perform safety-sensitive functions if there is reason to suspect the employee is using alcohol.
- (4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the

employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- (5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
 - (6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
 - (7) El Dorado Transit under its own authority also prohibits the consumption of alcohol all times employee is on duty, or anytime the employee is in uniform.
 - (8) Consistent with the Drug-Free Workplace Act of 1988, all El Dorado Transit employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including El Dorado Transit premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, as amended, all employees are required to notify the El Dorado Transit management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

H. TESTING REQUIREMENTS

1. Analytical urine drug testing and breath testing for alcohol will be conducted using the testing methodologies and threshold defined in 49 CFR Part 40 et. seq. as amended. All employees covered under FTA authority shall be subject to random testing or prior to performing safety-sensitive duty, return to duty/follow-up, following an accident, or for reasonable suspicion, , as defined in Section K, L, M, and N of this policy. All employees covered under El Dorado Transit authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow up using non-DOT testing forms.
2. A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under El

Dorado Transit authority, a non-DOT alcohol test can be performed any time an employee is on duty.

3. All covered employees will be subject to urine drug testing and breathe alcohol testing as a condition of ongoing employment with El Dorado Transit. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

1. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40 et. seq., as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
2. The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40 et. seq., as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40 et. seq., as amended.
3. The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for confirmed positive, substitute or adulterated rest result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory rest result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and

reported to El Dorado Transit. If a legitimate explanation is found, the MRO will report the test result as negative.

4. If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
5. Any covered employee who challenges a required drug test's results under paragraphs L through P of this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40 et. seq., as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. El Dorado Transit will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however, El Dorado Transit will seek reimbursement for the split sample test from the employee.
6. If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
7. The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.
8. Observed Collections
 - a. Consistent with 49 CFR Part 40 et. seq., as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to El Dorado Transit that there was not an adequate medical explanation for the result; or

- ii. The MRO reports to El Dorado Transit that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
- iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2mg/dl but less than or equal to 5 mg/dl, and the MRO reported the specimen as negative dilute and that a second collection must take place under direct observation.
- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
- v. The temperature on the original specimen was out of range;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- vii. All follow-up test; or
- viii. All return-to-duty tests.

J. ALCOHOL TESTING PROCEDURES

1. Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHSTA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40 et. seq., as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

2. An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
3. El Dorado Transit affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
4. The alcohol testing form (ATF) required by 49 CFR Part 40 et. seq. as amended shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

1. All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be conditionally extended upon the applicant passing a drug test. An applicant will not be allowed to perform a safety-sensitive function unless the applicant takes a drug test with verified negative results.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA or El Dorado Transit authority until the employee takes a drug test with verified negative results.
 - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a list of USDOT qualified SAPs. Failure of a pre-employment drug and test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the applicant's sole responsibility.
 - d. Employees shall be subject to disciplinary action in accordance with Section Q herein when an employee is placed, transferred, or promoted from a non-covered position to a position covered under FTA or El

Dorado Transit authority submits a drug test with a verified positive result.

- e. If a pre-employment test is canceled, El Dorado Transit will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to conducting safety-sensitive job functions.
- g. Following a negative dilute, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide El Dorado Transit with a signed written releases requesting USDOT drug and alcohol records from all previous, DOT covered employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. El Dorado Transit is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide El Dorado Transit proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All El Dorado Transit FTA covered employees will be subject to a drug and/or alcohol test if the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or alcohol. Reasonable suspicion means that specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under El Dorado Transit's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

A reasonable suspicion drug test can be performed any time the covered employee is on duty. All employees covered under the sole authority of El Dorado Transit will also be subject to non-USDOT reasonable suspicion testing procedures modeled off the provisions in 49 CFR Part 40 et. seq.

- 2) El Dorado Transit shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to El Dorado Transit.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. El Dorado Transit shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of El Dorado Transit. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

- 1) FATAL ACCIDENTS - All employees covered under FTA authority will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least of the following conditions is met:

- a. The accident results in injuries requiring immediate transportation to a medical treatment facility away from the scene, and the covered employee may have contributed to the accident;
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours after the accident for alcohol and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to 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.

In the rare event that El Dorado Transit is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), El Dorado Transit may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees are subject to random, unannounced testing. Employees covered under FTA authority will be selected from a pool of DOT-covered safety-sensitive employees. Employees covered under El Dorado Transit authority will be selected from a pool of non-DOT covered employees. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed on line at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under El Dorado Transit authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under El Dorado Transit's authority, a non-DOT random alcohol test may be performed any time the employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to immediately proceed to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both. Such employees must be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. Following the initial assessment, the SAP will recommend a course of

rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP as determined by the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40 et. seq. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under El Dorado Transit authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available and referred to a list of USDOT qualified Substance Abuse Professionals (SAPs) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
- 2) Following a negative dilute result, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and insubordination. Refusal shall result in termination and referral to a list of at least two (2) USDOT qualified SAPs. A test refusal includes the following circumstances:
 - a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer.

- b. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- c. Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen.
- e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- f. Fails or declines to take a second test the employer or collector has directed you to take
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO, or as directed by the DER.
- h. Fails to cooperate with any part of the testing process.
- i. If the MRO reports that there is verified adulterated or substituted test result
- j. Failure or refusal to sign Step 2 of the Alcohol Testing form.
- k. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- m. Admit to the collector or MRO that you adulterated or substituted the specimen.
- n. Failure to remain readily available for testing following an accident.

(4) For the first instance of a verified positive test from a sample submitted as the result of a random drug/alcohol test (≥ 0.04 BAC), disciplinary action shall include:

(a) Mandatory referral to a list of USDOT qualified Substance Abuse Professionals for assessment, formulation of a treatment plan, and/or execution of a return to duty agreement.

(b) Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from El Dorado Transit employment.

- Compliance with the return-to-duty agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that

test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.

(c) Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall, be considered a direct act of insubordination and shall result in termination.

(d) A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from El Dorado Transit employment.

- (5) The second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result on a random test shall result in termination from El Dorado Transit employment. An initial positive drug or alcohol test under the reasonable suspicion, post-accident, return-to-duty, or follow-up drug/alcohol test provisions herein, shall result in termination from El Dorado Transit employment.
- (6) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day, whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NON-DOT alcohol test with a result of less than 0.02 BAC.
- (7) The cost of any treatment or rehabilitation services will be paid directly by the employee or the employee's insurance provider. The employee will be permitted to use accrued sick leave or administrative leave to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the employee has successfully completed the required treatment program and has been released to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.
- (8) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include Mandatory referral for an assessment, by an employer approved counseling professional, formulation of a treatment plan, and execution of a return to work agreement.
- (a) Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from El Dorado Transit employment.
- Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of

that test is negative; the employee is cooperating with his/her recommended treatment program; and the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of El Dorado Transit and will be performed using non-DOT testing forms.

- (b) Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under El Dorado Transit authority and will be performed using non-DOT testing forms.
- (c) A self-referral or management referral to the employer's approved counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.
- (d) Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
- (e) A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with El Dorado Transit.
- (f) A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- (9) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

As specified in 49 CFR Part 40.149 (c) a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

El Dorado Transit is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately

misuse the policy in regard to subordinates shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

1. Drug/alcohol testing records shall be maintained by the El Dorado Transit Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without the tested employee's express written consent .
2. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
3. Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
4. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
5. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual. The records will be released to the decision maker in the proceeding.
6. Records will be released to the National Transportation Safety Board during an accident investigation.
7. Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
8. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
9. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over El Dorado Transit or the employee.

10. If a party seeks a court release of a specimen or part of a specimen, contrary to any provision of Part 40 as amended, necessary legal steps to contest the release will be taken.
11. In cases of a contractor or sub-recipient of a DOT, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

U. SYSTEM CONTACTS

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individuals(s).

El Dorado Transit Drug and Alcohol Program Manager

Maria Harris, Human Resources Manager
6565 Commerce Way
Diamond Springs, CA 96519
(530) 642-5383 x 209 or mharris@eldoradotransit.com

Medical Review Officer

MRO Express/Phillip Lopez, M.D.
3501 So 185th Avenue
Miramar, FL 33029
Or as designated by third party administrator

Substance Abuse Professional

Balance Works (EAP)
(800)327-2255
www.eniweb.com

HHS Certified Laboratory Primary Specimen

Quest Diagnostic
7600 Tyrone Avenue
Van Nuys, CA 91405
Or as designated by third party administrator

Consortium

Advanced Drug and Medical Screening (ADM)
279 Placerville Drive, Suite C
Placerville, CA 95667

Safety Sensitive Employees Subject to Testing

Operations Manager
Maintenance & Facilities Supervisor
Equipment Technician I & II
Transit Operations Supervisor
Transit Dispatcher
Safety Coordinator
Planning & Marketing Manager
Custodian
Maintenance Technician
Transit Operator

*** All El Dorado Transit hired employees are subject to pre-employment drug testing.**

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

Signs and Symptoms of Use

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

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

Health Effects

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease

- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is seven (7) times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are fifteen (15) times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll 2013

- 290,000 people injured in drunk driving accidents
- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues

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