

RIVERSIDE TRANSIT AGENCY
1825 Third Street
Riverside, CA 92507

June 22, 2006

TO: BOARD OF DIRECTORS
THRU: Larry Rubio, Chief Executive Officer
FROM: Laura Murillo, Director of Human Resources
SUBJECT: Drug and Alcohol Policy Revision

Summary:

The RTA Board of Directors approved the current Drug and Alcohol Policy on October 25, 2001. Since then, the Federal Transit Administration reviewed this policy during Triennial Performance Audits in 2001 and 2004. In late January 2006, the FTA conducted a comprehensive audit of the policy to determine whether the Agency is compliant with Department of Transportation (DOT) 49 Code Federal Regulations (CFR) Part 40 and Part 655. Part 40 details the requirements for performing drug and alcohol tests by all DOT operating administrations and the responsibilities of service agents, while Part 655 sets the specific FTA program requirements for FTA grant recipients, contractors and subcontractors.

Based on FTA's review, recommendations and compliance requirements, the Drug and Alcohol Policy was updated and subsequently re-reviewed by the FTA. On May 25, 2006, the Agency received notification that the revisions were approved. The final requirement is to have the policy reviewed and adopted by the Agency Board of Directors. Therefore, attached the Board will find the FTA approved draft policy. The policy has removed or revised language depicted by a strike-through and new language is underlined, italicized and in bold.

To assist the Board in identifying the revisions, below you will find a summary. (§ = Applicable Section from 49 CFR Part 40 or Part 655):

- Page 1 – The word “consent” was removed and replaced with the word “acknowledgement.” (§40.27)
- Page 2 – Specifies dates the policy and policy revisions were approved and adopted by the Board of Directors. (§655.15)
- Page 4 – Definition for Alcohol Test Form was added.

- Page 6 – Requirement for follow-up testing was added. (§40.305 & §40.307)
- Page 7, 8, 9, 12, 13, 14 & 15 – Further distinguishes what part of the policy falls under RTA authority versus FTA authority.
- Page 9 – Behaviors that constitute a refusal to submit to an alcohol test were added. (§40.261)
- Page 10 – Clarified that Attachment B (page 19) also includes list of drugs that are tested for Non-DOT tests. (§40.13) In addition, outlined the Agency’s policy on dilute negative drug tests. (§40.197)
- Page 11 – Behaviors that constitute a refusal to submit to a drug test were updated. (§40.191)
- Page 12 – Testing requirement for employees or applicants who have previously failed or refused a pre-employment drug test was added. In addition, testing requirement for employees or applicants who have not performed safety sensitive duties for 90 consecutive days was added. (§655.41)
- Page 13 – Outlines when an alcohol and drug test can be performed. (§655.45) In addition, outlines supervisor reporting requirement for post-accident alcohol testing that is not performed within 2 hours following accident. (§655.44)
- Page 14 – Clarifies random testing requirements. (§655.45)
- Page 16 – Clarifies alcohol testing requirements. (§40.23)
- Page 19 – Outlines DOT and Non-DOT drug testing cut-off levels. (§40.13)
- Page 20 – Title change.
- Page 21 – US Healthworks, Moreno Valley collection site was added.

The Amalgamated Transit Union (ATU), Local 1277, was provided with the revised policy and was given the opportunity to meet to discuss changes. The ATU has not expressed opposition to any changes.

Fiscal Impact:

None.

Committee Recommendation:

This item was discussed at the Board Budget and Administration and Board Operations Committee meetings of June 7, 2006. The Committees' members unanimously approved recommending this item to the full Board of Directors for their consideration.

Recommendation:

In order to meet the requirements of the January 2006 Federal Transit Administration audit, staff recommends that the Board of Directors approve the revised Drug and Alcohol Policy as presented with an effective date of June 22, 2006.

**ACKNOWLEDGEMENT OF RECEIPT OF
RIVERSIDE TRANSIT AGENCY
DRUG AND ALCOHOL POLICY AND
ACKNOWLEDGEMENT OF CONSENT TO DRUG AND ALCOHOL TESTING
REQUIREMENTS**

I have received a copy of the Riverside Transit Agency's Drug and Alcohol Policy. I understand and acknowledge that compliance with this Policy is a condition of my employment and, if I violate any provision of this Policy, I will be subject to disciplinary action, which may include termination.

I hereby consent ~~acknowledge~~ **acknowledge** for the ~~that~~ **that** the Agency ~~will~~ **will** to collect breath and/or urine samples from me to determine the presence or use of alcohol, drugs, and/or their metabolites and the use of an Evidential Breath Test to determine the presence of alcohol, under the circumstances specified in the Agency's Drug and Alcohol Policy. I understand that the Agency will be informed as to whether the test is positive or negative, and, if positive, for which specific drug(s) there was a positive result.

Date: _____

Employee (signature)

Employee Name (printed)

RIVERSIDE TRANSIT AGENCY
DRUG AND ALCOHOL POLICY

The Agency acknowledges a strong commitment to the health and well being of its employees. Any employee or eligible dependents that may be experiencing the pressures and problems of substance abuse and/or related problems are urged to seek help through the Employee Assistance Program (EAP). Professional Resources provides confidential counseling and may be called directly at (909) 781-0510 or (800) 266-0510. Questions concerning the Drug and Alcohol Policy should be directed to the Human Resources Department. Contact Laura Murillo, Human Resources Director, Riverside Transit Agency, 1825 Third St., Riverside, CA 92507 at (909) 565-5000 x 5080.

Dates of Board Approval and
Adoption of Policy and Policy Revisions
April 27, 1995
October 25, 2001
June 22, 2006

DRUG AND ALCOHOL POLICY

Riverside Transit Agency has a vital interest in providing its employees with safe and healthful working conditions and providing its riders and the public with high quality public transportation that is effective, safe and efficient. The Agency will not tolerate any drug or alcohol use which may affect the job performance or pose a hazard to the safety and welfare of the employee, the public, and other employees of the Agency. Off duty illegal drug and alcohol use, which affects the employee's job performance, or jeopardizes Agency and public safety is, ***under RTA policy***, proper cause for disciplinary action up to and including dismissal.

Employees have the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs. Employees who abuse alcohol and drugs are a danger to themselves and to other employees. In addition drug and alcohol abuse inflicts a terrible toll on the nation's productive resources and the health and well being of American workers and their families.

The Agency is, therefore, committed to establishing and maintaining a safe and healthy work environment free from the influence of alcohol and drugs. With this objective in mind, the Agency has established the following Drug and Alcohol Policy (the "Policy") with regard to the use, possession, sale, manufacture, and distribution, of alcohol or drugs.

This Policy is adopted pursuant to the Federal Transit Administration (FTA) regulation, 49 CFR Part 655, that mandates, under certain circumstances, urine drug testing and breath alcohol testing and the U.S. Department of Transportation (DOT) standards for the collection and testing of urine and breath specimens, 49 CFR Part 40, as amended. In addition, the United States Congress enacted The Drug-Free Workplace Act of 1988 (DFWA), which required the establishment of drug-free workplace policies, and the reporting of certain drug related offenses to the appropriate federal agency (in this case, to the FTA). This policy incorporates those Federal requirements and State requirements.

I. RESPONSIBILITIES

Employees at all levels (administrative and bargaining unit) are responsible for reading, understanding and adhering to this Policy. Each employee shall receive and sign for a copy of this Policy.

Managers and Supervisors will be held strictly accountable for the consistent application and enforcement of the Policy. Any Manager/Supervisor 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 discipline up to and including termination, ***in accordance with RTA disciplinary policy.***

II. DEFINITIONS USED IN THE POLICY

The following phrases have specific meanings when used in the Policy:

1. **"ATF": Alcohol Test Form**
2. "BAT": Breath Alcohol Technician.
3. "DHHS": Department of Health and Human Services.
4. "DOT": Department of Transportation.
5. "Evidential Breath Testing (EBT) Device": a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurements Devices" (CPL) and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.
6. "FTA": Federal Transit Administration.
7. "Illegal Drug": illegal drug means marijuana, cocaine, opiates, amphetamines or phencyclidine; a prescription drug that is not used for its prescribed purpose; or a prescription drug that is illegally obtained.
8. "Legal Drug": any drug prescribed by a physician for the employee or any over-the-counter drug that is being used for the purpose for which it has been prescribed or manufactured.
9. "Medical Review Officer ('MRO')": a licensed physician appointed by the Agency responsible for receiving laboratory results generated by the Agency's drug and alcohol testing program who has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an employee's confirmed positive alcohol and/or drug test result and together with his or her medical history and any other relevant biomedical information and who shall verify the test result prior to transmission thereof to the Agency and determine whether the employee has failed the test. The MRO will also determine (when the Agency requests such a determination) whether an employee who is taking a legal drug(s) may work while under the influence of such drug(s).
10. "Positive Alcohol Test": In accordance with DOT and FTA standards the presence of alcohol in a body at a concentration higher than that allowed by this policy as measured by an Evidential Breath Testing (EBT) Device.

11. "Positive Drug Test": In accordance with DOT and FTA standards any urine that is chemically tested (screened and confirmed) which shows the presence at or above the cut off levels set forth in Attachment "B" of marijuana, cocaine, opiates, amphetamines or phencyclidine and is verified by the MRO.
12. "Safety Sensitive Position": any position which entails any of the following duties related to the safe operation of the Agency's mass transportation service including: (a) operation of a revenue service vehicle, whether or not such vehicle is in revenue service; (b) operation of a nonrevenue 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 or equipment used in revenue service; (d) maintaining revenue service vehicles or equipment used in revenue service; or (e) carrying a firearm for security purposes. The positions currently classified as Safety Sensitive Positions are listed in Attachment-A, which is subject to revision as needed. A safety sensitive employee shall mean an employee in a safety sensitive position.
13. "Substance Abuse Professional (SAP)": unless otherwise noted, an RTA authorized licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or a certified addiction counselor, (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug related disorders.
14. "Under the Influence": the employee is affected to an extent by alcohol or a drug or metabolites of such, or the combination of alcohol and a drug, or has alcohol or a drug or metabolites of such in the employee's body in any amount in accordance with the DOT and FTA standards.

III. EMPLOYEE ASSISTANCE PROGRAM

The Agency maintains an Employee Assistance Program (EAP), which offers confidential, professional counseling to employees and family members. It provides a constructive way by which employees can deal with alcohol and/or drug-related problems before such problems impact on-job performance, family relations, and other areas of one's life. Employees experiencing personal or work performance problems associated with alcohol or drug use are urged to utilize the EAP.

It is the responsibility of employees to seek assistance from the EAP before alcohol and/or drug problems lead to disciplinary action, which can include discharge for a first offense. Enrollment and participation in the EAP will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. However, enrollment and participation in the EAP will not exempt an employee from discipline if that employee is found to have violated this Policy.

Provisions for leaves of absence for employees with alcohol and/or drug related problems that have not been found in violation of the Policy and who voluntarily have sought assistance through the Employee Assistance Program will be granted in accordance with Agency policy.

Any employee who tests positive for the presence of illegal drugs or alcohol at or above the cut off levels established by the DOT must be referred to a SAP to determine what assistance, if any, the employee needs in resolving problems associated with drugs or alcohol misuse and will receive educational materials on the consequences of the use of drugs and/or the misuse of alcohol. **Employees must successfully complete any education and treatment program recommended by the SAP, and will be subject to follow-up testing if/when they return to duty.**

The cost of any treatment or rehabilitation services may be covered by the medical insurance policy provided by the Agency, which may require a co-payment by the employee, paid directly by the employee or his/her insurance provider.

IV. DRUG FREE AWARENESS PROGRAM

To assist employees and their families to understand and to avoid the perils of drug and alcohol abuse, the Agency has developed a comprehensive Drug-Free Awareness Program. The Agency will use that program in an ongoing educational and training effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.

The Drug-Free Awareness Program will include the display and distribution of informational material and will inform employees and their families about: (1) the dangers of alcohol and drug abuse in the workplace; (2) the consequences of drug and/or alcohol use on personal health, safety, and the work environment; (3) the manifestation and behavioral cues that may indicate drug and/or alcohol use and abuse; (4) the Agency's Drug and Alcohol Policy; (5) the availability of treatment and counseling service hotline telephone number for employee assistance; and (6) the sanctions the Agency will impose for violations of its Drug and Alcohol Policy.

All employees, supervisors and management personnel will be required to attend the minimum one-hour training program. Additionally, the families of all employees may attend and are encouraged to do so. Supervisors and management personnel will also receive at least one (1) hour of additional training on the physical, behavioral and performance indicators of probable drug use in conjunction with the program.

In addition to the training provided under the Drug Free Awareness Program, safety-sensitive employees and supervisors of safety-sensitive employees who are responsible for making reasonable suspicion determinations will complete training under the FTA regulations. Safety-sensitive employees will complete an hour of training on drug use only.

Supervisors of safety-sensitive employees will complete a two-hour reasonable suspicion referral training session that provides one hour of training on drugs and one hour on alcohol. This training will include the physical, behavioral and performance indicators of drug use and alcohol misuse.

V. ON-THE-JOB USE, POSSESSION, SALE OR BEING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

A. Alcohol.

Under RTA policy, ~~t~~The possession, consumption or sale of any amount of alcoholic beverage while at work, or on Agency property, or in an Agency vehicle or in an Agency uniform is prohibited for all employees. No employee should report for duty or remain on duty when he or she is under the influence of alcohol. Employees must refrain from alcohol consumption within four (4) hours of reporting to work or during the hours that he/she is subject to duty. They must also refrain from alcohol use for eight (8) hours following an accident for which they will be required to test, unless the employee has undergone the post-accident testing. Under FTA rules, a blood alcohol concentration of 0.04 or greater, when performing a safety-sensitive function, is also prohibited.

B. Legal Drugs for Safety Sensitive Employees.

Under RTA policy, an employee in a Safety Sensitive Position must receive authorization to work from the Agency's Director of Human Resources and the employee's doctor prior to taking any legal drug which may cause drowsiness or which may otherwise impair to any extent the employee's ability to safely and efficiently perform his/her job.

In compliance with FTA rules, the ingestion of prohibited drugs is prohibited at all times.

The employee's doctor, after consultation with the Director of Human Resources, may authorize the employee to work while under the influence of a legal drug upon receipt of a fully completed and signed authorization form which states to the Agency's satisfaction that the employee will not be impaired in the performance of his/her duties.

C. Illegal Drugs.

Under RTA policy, ~~t~~The use, sale, purchase, offer to sell, transfer, possession, manufacture, or distribution of an illegal drug by any employee while in an Agency facility or an Agency vehicle, or on Agency property or while in Agency uniform or while performing Agency business on duty is strictly prohibited. The presence of any amount determined to be a positive test result per DOT/FTA regulations of any illegal drug

or its metabolites in any employee while performing Agency business or in an Agency facility, an Agency vehicle or in Agency uniform or on Agency property is prohibited.

No employee shall bring drug paraphernalia that is used in the storage, concealment, injection, ingestion or consumption of illegal drugs onto Agency premises or property or into Agency vehicles.

VI. ALCOHOL AND DRUG TESTING

The Agency shall conduct alcohol and drug testing under the circumstances set forth in this Section VI when circumstances warrant or when required by applicable law or regulations or as required by RTA. **Any test conducted under RTA policy will be conducted under the authority of RTA and not of the FTA.** A positive result of a drug or alcohol test administered under the Policy is a violation of this Policy and will result in a disciplinary action, up to and including termination. ***Any disciplinary actions are solely part of RTA's policy and not that of the FTA.***

A. Testing Procedures

Testing will be performed in strict compliance with DOT regulations for alcohol and drug testing (49 CFR Part 40, as amended) by professionals under contract with the Agency. Under no circumstance will a supervisor of the employee conduct testing. The Agency will take every possible step to ensure that testing can be completed and the employee can return to work prior to the end of the employee's shift, in order to accommodate the employee (off-duty schedules, including carpooling and other transportation concerns.)

The alcohol test must be conducted just before, during or just after an employee performs a safety-sensitive function. The drug test can be conducted anytime while the safety-sensitive employee is on duty.

~~_____The following are behaviors that constitute a refusal to submit to a test: refusal to take the test (verbal refusal or physical absence), inability to provide sufficient quantities of breath or urine without a valid medical explanation, tampering with or attempting to adulterate the specimen or interfere with the collection procedure, not reporting to the collection site in the time allotted, and leaving the scene of an accident without a valid reason before the tests have been conducted. As of August 1, 2001, the following are additional behaviors that constitute a refusal to test: (1) refusal to remove outer garments or leave them outside the testing area; and (2) refusal to empty pockets. A refusal to submit to a test is considered a positive test result.~~

1. Alcohol Testing

Tests for alcohol concentration will be conducted at the Agency's expense utilizing an NHTSA-approved EBT device operated by a qualified BAT. If the initial test (the "screening test") indicates an alcohol concentration of 0.02 or greater, a second test will be performed (the "confirmation test"), no earlier than fifteen (15) minutes and no later than thirty (30) minutes after the screening test, to confirm the results of the screening test. In the event that the screening test and confirmation test results are not identical, the confirmation test result shall be deemed to be the final result upon which any action pursuant to this Policy shall be based. (A confirmed alcohol concentration of 0.04 or greater will be considered a positive test and a violation of this Policy. If the confirmed alcohol concentration is 0.02 or greater but less than 0.04, the safety-sensitive employee will be removed from safety-sensitive duties for 8 hours or until retest shows a concentration less than 0.02.). ***Under RTA policy***, the employee is placed on non-paid relief status.

If an employee is unable, after two attempts, to provide an amount of breath sufficient to permit a valid breath test, the Agency shall direct the employee to obtain, at the Agency's expense, an evaluation from a licensed physician satisfactory to the Agency and the Union concerning the employee's medical ability to provide an adequate amount of breath. If the physician determines that a medical condition has, or with a high degree of probability could have, precluded the employee from providing an adequate amount of breath, the employee's failure to do so shall not be deemed a refusal to test. If the physician is not able to make such a determination, then the employee's failure to provide an adequate amount of breath shall be regarded as a failure of the test.

The following behaviors constitute a refusal to submit to a test: Any employee who:

- ***fails to appear for any test (except a pre-employment test) within a reasonable time***
- ***fails to remain at the testing site until the testing process is complete,***
- ***fails to provide an adequate amount of saliva or breath for any alcohol test,***
- ***fails to provide sufficient breath specimen and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure,***
- ***fails to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined at §40.265(c),***
- ***fails to sign the certification at Step 2 of the ATF***
- ***Fails to cooperate with any part of the testing process.***

2. Drug Testing Procedures

Drug testing is a two-stage process utilizing a urine specimen. First a screening test using an immunoassay technique is performed. If it is positive for one or more drugs, a

confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis.

Pursuant to the DOT and FTA regulations the drugs or classes of drugs to be tested are listed in Attachment B. **Attachment B also lists the drugs or classes of drugs to be tested for Non-DOT drug testing.** Attachment B also lists initial and confirmatory cutoff levels for these drugs.

The trained health care worker will collect a split urine sample at a designated collection site approved by the Agency. A strict chain of custody will be followed from the point of collection to the Department of Health and Human Services ("DHHS") certified testing laboratory approved by the Agency. The primary sample is screen tested by the laboratory using an immunoassay technique. If the sample is positive for one or more drugs covered by this Policy, a confirmatory test is performed for each identified drug using gas chromatography/mass spectrometry.

The laboratory will release test results only to the Medical Review Officer ("MRO"). The Agency- approved Medical Review Officer will review all test results, at the Agency's expense. If test results are positive, the MRO contacts the employee to determine if there is an alternate medical explanation for the drugs found. If the employee provides appropriate documentation, or if the MRO determines based upon all available information that there is a legitimate medical use, or other valid explanation, the test result is reported as negative. All test results, whether positive or negative, are reported only to the RTA Director of Human Resources, Laura Murillo, or in her absence, to her specified designee.

The employee may request the MRO to have the split specimen sent to another DHHS-certified laboratory for analysis at the employee's expense through payroll deduction. This request must be made directly to the MRO no later than seventy-two (72) hours after the MRO has notified the employee of a positive test result, which has been confirmed by the MRO. The split specimen will be tested according to the same screening and confirmatory procedures for those drug(s) or drug metabolite(s) found in the primary specimen.

If the MRO informs the Agency that a negative drug test was dilute, the employee will be required to submit to another test immediately. Such recollection must not be collected under direct observation, unless there is another basis for use of direct observation. The second test shall become the test of record.

The employee shall provide a minimum of 45 milliliters of urine for the split specimen collection. If the employee is unable to provide such a quantity of urine, the employee shall drink not more than 40 ounces of fluids and, after a period of up to three hours, again attempt to provide a complete sample. If the employee is unable to provide an adequate specimen, the specimen shall be discarded and testing discontinued. The MRO shall refer the employee, at the Agency's expense, for a medical evaluation from a licensed physician

satisfactory to the Agency concerning whether the inability to provide a specimen is genuine. If the physician determines that a medical condition has, or with a high degree of probability could have, precluded the employee from providing an adequate urine sample, the employee's failure to do so shall not be deemed a refusal to test. If the physician is not able to make such a determination, then the employee's failure to provide an adequate urine sample shall be regarded as a refusal to test.

~~The following behaviors constitute a refusal to submit to a test: Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, who attempts to falsify test results through tampering, contamination, adulteration, or substitution, or does not report to the collection site in the time allotted or leaves the scene of an accident without a valid reason before the tests have been conducted. A refusal to submit to a test is a positive test result. Any employee that exhibits these behaviors shall be subject to disciplinary action up to and including discharge. As of August 1, 2001, the following are additional behaviors that constitute a refusal to test: (1) refusal to remove outer garments or leave them outside the testing area; and (2) refusal to empty pockets. Any disciplinary action is that of the Riverside Transit Agency and not that of the FTA.~~

The following behaviors constitute a refusal to submit to a test: Any employee who:

- **Fails to appear for any test (except a pre-employment test) within a reasonable time,**
- **Fails to remain at the testing site until the testing process is complete,**
- **Attempts to falsify test results through tampering, contamination, adulteration, or substitution,**
- **Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations,**
- **Fails to permit the observation or monitoring of your provision of a specimen, in the case of a directly observed or monitored collection in a drug test,**
- **Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure,**
- **Fails or declines to take a second test the employer or collector has directed the employee to take,**
- **Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under §40.193(d),**
- **Fails to cooperate with any part of the testing process.**

The privacy of the employee shall be protected at all times. RTA will adhere to all standards of confidentiality regarding employee testing.

The drug collection site follows 49 CFR Part 40 guidelines, as amended, by providing a secure and private area for specimen collection for which access to water has been cut off and bluing agent has been added to the water in the toilet. In addition, the

drug collection site also has a secure location for specimens and specimen collection materials. The supplies used to collect specimens conform to 49 CFR Part 40 guidelines, as amended.

B. Grounds for Drug and Alcohol Testing

1. Pre-Employment and Transfer to a Safety Sensitive Position Testing.

The Agency will conduct pre-employment physical examinations and testing practices designed to prevent hiring persons who use illegal drugs and/or persons whose use of legal drugs indicates a potential for impaired or unsafe job performance. An individual will not be hired unless the individual passes a drug test administered in accordance with this Policy. ***Per RTA policy***, if an applicant does not pass a drug test, he or she must wait twelve (12) months before reapplying and then must present evidence of completion of a drug rehabilitation program that is acceptable to the Agency before he/she is eligible to apply.

An employee who will be transferred to a Safety Sensitive Position must first pass a test administered in accordance with this Policy. If the test results are positive for an illegal drug, then the actions specified in Section IX.B will apply.

When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Section 49 CFR Part 655.62.

When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result before returning to safety-sensitive duties.

2. Testing at Time of DOT Recertification or Biennial Physical Examination.

Under RTA policy, ~~t~~The Agency will require a drug test as part of an employee's DOT recertification examination, or for any employee who is not required to be DOT certified, at his/her biennial physical examination.

3. Reasonable Suspicion Testing.

The Agency will require a drug and/or alcohol test of any employee who is reasonably suspected of using or being under the influence of an illegal drug, or alcohol while on duty, in Agency vehicles, or on Agency property, or in Agency uniform.

Reasonable suspicion shall be based upon the specific, contemporaneous and articulable observations concerning the appearance, behavior, speech, or body odors of the employee by a supervisor trained in detecting signs and symptoms of drug use and alcohol misuse.

The alcohol test must be conducted just before, during or just after an employee performs a safety-sensitive function. The drug test can be conducted anytime while the safety-sensitive employee is on duty.

4. Post-Accident Testing.

An accident associated with the operation of an agency vehicle will result in an alcohol and drug test as set forth in this section:

- a) In the event of a fatality;
- b) Any time an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
- c) One or more road vehicles incurs disabling damage as a result of the occurrence and is transported away from the scene by a tow truck or other vehicle.

Following a fatal accident under part (a) above, drug and alcohol testing will be required of any safety-sensitive employees operating the vehicle at the time of the accident. The Agency will also test any other safety-sensitive employees whose performance could have contributed to the accident, as determined by the Agency, using the best information available at the time the decision to test is made.

Following a non-fatal accident under parts (b) and (c) above, drug and alcohol testing will be required of any safety-sensitive employees on duty, operating the vehicle at the time of the accident whose performance could have contributed to the accident, as determined by the Agency, using the best information available at the time the decision to test is made. The Agency will also test any other safety-sensitive employees whose performance could be contributed to the accident, as determined by the Agency, using the best information available at the time the decision to test is made.

Under RTA policy, drug and alcohol testing will be required of any employee involved in an accident that does not fall under parts (a), (b) and (c).

A decision as to whether to administer a drug and alcohol test after an accident will be made by a supervisor who was not involved in the accident and based on the best information available at the time. If the supervisor determines that testing is appropriate or necessary, the employee(s) shall be tested immediately, but not to exceed eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing. If testing is not

completed within these time frames, then the Agency shall cease its attempts to test **and will prepare a record stating the reasons the alcohol test was no longer pursued. If the alcohol test is not administered within two hours following the accident, the supervisor shall prepare a record stating the reasons the alcohol test was not promptly administered.** Any employee(s) subject to post-accident testing who fails to remain readily available for such testing, including notifying the Agency of his or her location if he or she leaves the scene of the accident prior to the submission to such test, will be considered to have refused the test and will be subject to discipline in accordance with Part IX of this Policy. 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.

5. **Return-to-Duty and Follow-up Testing.**

FTA regulations mandate that following a positive drug and/or alcohol test result, an employee may not return to work until he/she passes a return-to-duty drug and/or alcohol test. The SAP must issue the order for a return-to-work test. In addition, FTA regulations mandate that following a negative return-to-work test result, the employee is subject to a minimum of six unannounced tests over the following twelve months. Additional testing may be determined by the SAP for up to but not to exceed 60 months.

Under Riverside Transit Agency's authority, an employee who is placed on a leave of absence following his/her entry into the Employee Assistance Program for substance abuse problems must pass a drug and alcohol test and must execute the Rehab Agreement (Attachment-C) before he/she may return to duty. This contract allows Management the option to administer up to six (6) unannounced drug and/or alcohol tests per year for up to five (5) years after the employee returns to duty. This follow-up testing is separate from and in addition to the regular random testing of Safety Sensitive employees.

6. **Random Testing.**

Only those employees who perform or whose job description includes the performance of safety-sensitive functions will be subject to random, unannounced **and immediate** testing using a computer-based random-number selection method in accordance with FTA regulations. Random testing may include an alcohol test, a drug screen or both so long as 10% of all safety-sensitive employees are tested for alcohol and 50% of all safety-sensitive employees are tested for drugs each year (or as otherwise required in order to meet the minimum annual percentage rates set by the FTA). Each such employee shall have an equal chance at selection and shall remain in the pool even after being tested. Random testing will be administered at random times during **all the days and hours throughout the year** to avoid predictability.

Random testing for alcohol will be conducted 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 to perform such functions.

VII. CONVICTION OF A DRUG-RELATED OFFENSE

Under RTA policy, conviction of a felony for use, offer to sell, purchase or obtain possession, sale, manufacture, distribution or dispensation of illegal drugs, or for abuse of legal drugs, is grounds for immediate termination. Employees arrested on such charges will be suspended without pay pending resolution of the criminal charges.

Under RTA policy, Employees must notify their immediate supervisor within five days of any arrest or conviction of a criminal drug statute and any arrest or conviction of a criminal statute relating to alcohol, including but not limited to driving under the influence. Failure to do so is grounds for immediate termination.

VIII. INSPECTIONS

Under RTA policy, the Department Director/Manager or higher-level management personnel must authorize an inspection. Whenever possible, the searches should also be approved by the Director of Human Resources. Management personnel will conduct all Agency-owned property inspections with the employee and union representative present. All personal property will be inspected with law enforcement personnel present.

IX. DISCIPLINARY ACTION FOR VIOLATIONS OF POLICY

Under FTA regulations, the employer shall determine discipline for Policy violations. Violation of any portion of this Policy may result in termination of employment, even for the first offense.

A. Failure to Pass Pre-Employment Alcohol and/or Drug Test.

An applicant whose pre-employment test results are positive for any illegal drug will not be hired.

B. Failure to Pass Transfer, Reasonable Suspicion, Post-Accident, Return-to-Duty or Random Alcohol and/or Drug Test.

1. Alcohol

a. A safety sensitive employee whose test results are positive for alcohol may be discharged. In concurrence with FTA regulations, a Breath Alcohol Content (BAC) of 0.04 constitutes a positive alcohol test under RTA's policy.

b. A safety sensitive employee whose final test result as determined in accordance with DOT/FTA regulations shows a BAC of .02 or greater but less than .04 shall be removed from duty ***immediately*** and shall not return to a safety-sensitive position for eight (8) hours or until a test result below .02 is obtained, which ever comes first. ***Under RTA policy***, an employee who's BAC remains between .02 or greater but less than 0.04 is placed on non-paid relief status.

c. ***Under RTA policy***, a safety-sensitive employee whose confirmatory test shows a BAC of 0.04 or greater shall be suspended from work ***immediately*** and shall be referred to a SAP for evaluation. The SAP shall make a determination as to whether the employee requires rehabilitation, and if so, shall recommend a course of rehabilitation to be completed under the Agency's Employee Assistance Program ("EAP").

2. Drugs

a. Any employee whose test results are positive for any illegal drug will be subject to disciplinary action up to and including discharge.

b. A safety sensitive employee who receives a verified positive drug test result as determined in accordance with DOT/FTA regulations shall be immediately suspended from work and must be referred to a SAP for evaluation. The SAP shall make a determination as to whether the employee requires rehabilitation, and if so, shall recommend a course of rehabilitation to be completed under the Agency's EAP.

c. ***Under RTA's policy***, a safety sensitive employee whose test results are positive for a legal drug, which has not been approved by the employee's physician for use by that employee at work (or such authorization has been revoked), may be suspended without pay pending the employee obtaining such approval.

C. Failure to Pass Drug Test at Time of DOT Recertification or Biennial Physical Examination.

Under RTA's policy, if an employee's test results at the time of DOT recertification or biennial physical examination are positive for any illegal drug outlined in 49 CFR part 40, as amended, the employee will be suspended without pay and required to enter into a Rehab Agreement (Attachment-C). Pursuant to such contract, the employee must enter an Agency-approved substance abuse treatment program and provide verification of such to the Agency. If the employee refuses to comply with the Agency's requirement to enter an Agency-approved Substance Abuse Program and sign a Rehab Agreement, his/her employment will be terminated. If an employee is participating in an Agency-approved treatment program, and that treatment requires hospitalization, the employee may use available sick leave and/or vacation time to the extent sick leave and/or vacation time is available. All such treatment must be documented by the hospital.

Under RTA's policy, the employee must take a second drug test as designated by the Agency, not sooner than thirty days (30 days) nor longer than thirty-five (35) days from the date of the first test. If the employee does not take the second test when and as designated by the Agency, his/her employment will be terminated.

Under RTA's policy, if the second test is positive for any illegal drug, the employee's employment will be terminated. If the second test is negative for illegal drugs and the MRO determines that the employee may return to duty, then the employee may return to duty on a Rehab Agreement. Violation of the contract will result in termination.

Under RTA's policy, should the employee have a positive drug test at any subsequent DOT recertification or biennial physical examination, his/her employment will be immediately terminated.

X. CONDITIONS OF EMPLOYMENT

Compliance with the Agency's Drug and Alcohol Policy is a condition of employment. Failure or refusal of an employee to cooperate fully, sign any required document, submit to any inspection or test, or follow any prescribed course of substance abuse treatment is grounds for termination.

XI. CONFIDENTIALITY

The employer shall make every effort to assure confidentiality throughout the testing process and to protect the individual dignity and right to privacy of all employees. Personal data regarding the drug and alcohol testing results and EAP evaluations will be forwarded only to the MRO or the SAP and are confidential. Test results are received by the Drug and Alcohol Manager (Director of Human Resources) and are kept separately from other files in a locked cabinet. Except as required by law, or expressly authorized or required by the regulations, the employer shall not release any information from the records it is required to maintain under the regulations. The employee, and the union if so authorized by the employee, upon written request, is entitled to obtain copies of any records pertaining to the employee's drug and alcohol testing.

ATTACHMENT - A
SAFETY SENSITIVE POSITIONS

"A" Mechanic

"B" Mechanic

"C" Mechanic

Body Mechanic "A" and "B"

Coach Operator

Electronic Technician

Servicer

Shop Supervisor

Tire Servicer

Training Manager

Transit Services Supervisor

ATTACHMENT – B

RIVERSIDE TRANSIT AGENCY

CUT OFF LEVELS INFORMATION

	Initial cut off levels
<u>DOT & NON-DOT</u>	
Marijuana Metabolites	50ng/ml
Cocaine Metabolites	300ng/ml
Opiate Metabolites	2,000ng/ml
Phencyclidine	25ng/ml
Amphetamines	1,000ng/ml
<u>NON-DOT</u>	
<u>Barbiturates</u>	<u>300ng/ml</u>
<u>Benzodiazepines</u>	<u>300ng/ml</u>
<u>Methadone</u>	<u>300ng/ml</u>
<u>Opiates* (see below for additional elements)</u>	<u>300ng/ml</u>
<u>Propoxyphene</u>	<u>300ng/ml</u>
<u>*Non-DOT Opiate testing is screened & confirmed at 300ng/ml</u>	

	Confirmatory cut off levels
<u>DOT & NON-DOT</u>	
Marijuana Metabolites	15ng/ml
Cocaine Metabolite	150ng/ml
Opiates	
Morphine	2,000ng/ml
Codeine	2,000ng/ml
Phencyclidine	25ng/ml
Amphetamines	
Amphetamine	500ng/ml
Methamphetamine	500ng/ml
<u>NON-DOT</u>	
<u>Barbiturates</u>	
<u>Amobarbital</u>	<u>200ng/ml</u>
<u>Butalbital</u>	<u>200ng/ml</u>
<u>Pentobarbital</u>	<u>200ng/ml</u>
<u>Phenobarbital</u>	<u>200ng/ml</u>
<u>Secobarbital</u>	<u>200ng/ml</u>
<u>Benzodiazepines</u>	<u>300ng/ml</u>
<u>Methadone</u>	<u>100ng/ml</u>
<u>Opiates</u>	
<u>Codeine</u>	<u>300ng/ml</u>
<u>Morphine</u>	<u>300ng/ml</u>
<u>Hydrocodone</u>	<u>300ng/ml</u>
<u>Hydromorphone</u>	<u>300ng/ml</u>
<u>Oxycodone</u>	<u>300ng/ml</u>
<u>Propoxyphene</u>	<u>300ng/ml</u>

ATTACHMENT - C
RIVERSIDE TRANSIT AGENCY
REHAB AGREEMENT

I understand that I will be allowed to continue my employment with the Riverside Transit Agency. I will participate and submit continuing documentation on a monthly basis of my participation in an Agency-approved substance abuse treatment program. Additionally, upon successful completion of said program, I will provide the necessary documentation of such.

I agree not to use illegal drugs, including but not limited to marijuana.

I agree not to use alcohol at prescribed times.

I understand that in order to return to my employment I must submit to additional alcohol/drug test(s).

I also understand that during the sixty (60) months following my return to work, I may be tested without prior notice and if there is any violation of this Policy, my employment with Riverside Transit Agency will be terminated. I also understand that refusal to submit to such a test will result in the termination of my employment.

I understand and agree to all the above conditions. I also understand and agree that failure to meet all terms and conditions of this commitment will result in the termination of my employment, with no hearing before discharge and no right of appeal through the grievance procedure unless a chain of custody issue is raised.

Date: _____

Employee (signature)

Date: _____

Union Business Agent (signature)

Date: _____

Director of Human Resources (signature)

Date: _____

General Manager **Chief Executive Officer**
(signature)

ATTACHMENT - D
RIVERSIDE TRANSIT AGENCY
COLLECTION SITES AND LABORATORY

COLLECTION SITES:

ACCESS FIRST URGENT CARE
1545 W. Florida Ave.
Hemet, CA 92543
(951) 929-6777

US HEALTHWORKS
1760 Chicago Ave., Ste. J3
Riverside, CA 92507
(951) 781-2200

US HEALTHWORKS
16420 Perris Blvd.
Moreno Valley, CA 92355
(951) 571-2450

LABORATORY:

CENTRAL DRUG SYSTEM
16560 Harbor Blvd., #A
Fountain Valley, CA 92708
(714) 418-0130