



Southwest Area Regional Transit District

DRUG AND ALCOHOL TESTING POLICY

Adopted by Board of Directors

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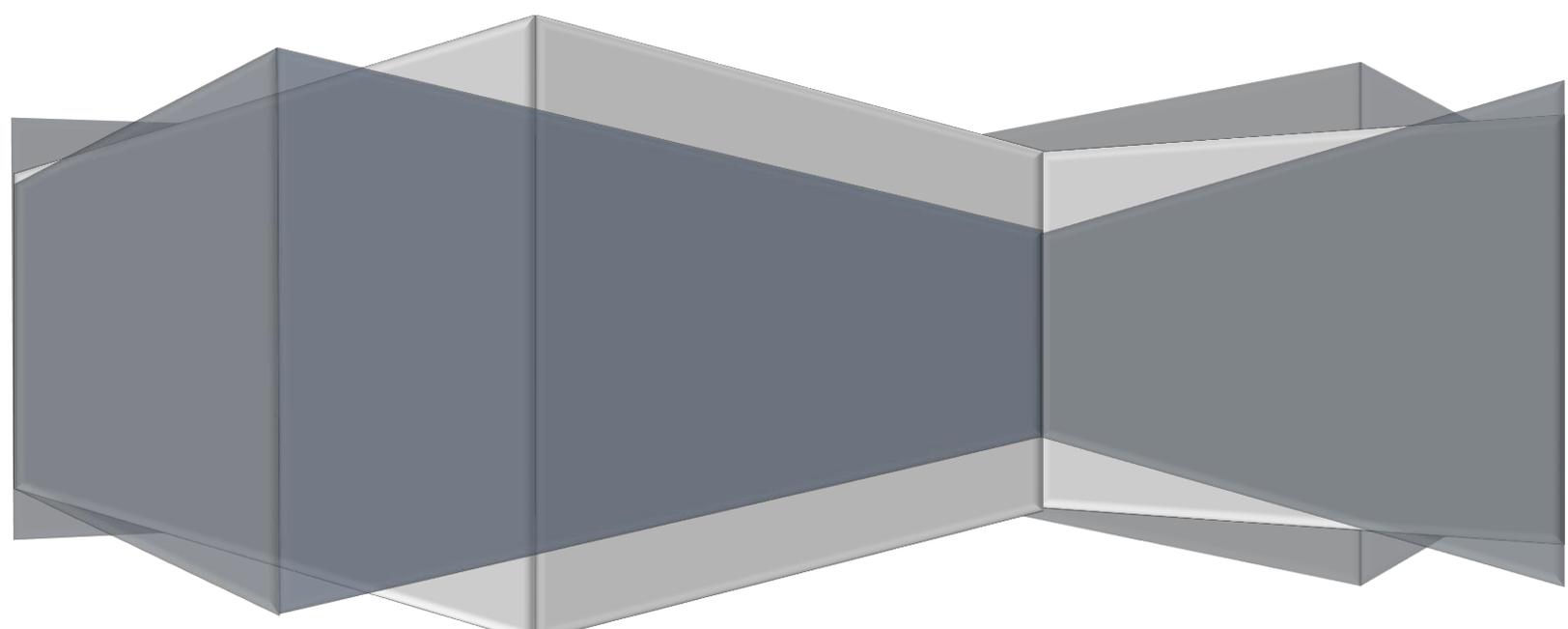
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PRE-EMPLOYMENT DRUG TESTING ACKNOWLEDGEMENT

I, hereby acknowledge and understand that, as part of my application for employment for a position which involves the performance of safety-sensitive functions as defined by 49 CFR Part 655, as amended, I must submit to a urine drug test under the authority of the U.S. Department of Transportation, Federal Transit Administration. I acknowledge and understand that my employment is contingent on the passing of the aforementioned drug test, and I will not be assigned to perform a safety-sensitive function unless my urine drug test has a verified negative result.

Signature of Applicant

Date

Print Name

Date

(Your application will not be considered for employment of a covered safety-sensitive position unless this acknowledgment is completed and signed.)

Table of Contents
Drug and Alcohol Testing Policy

SUBJECT	PAGE
Purpose	2
Applicability	2
Definition	3
Education and Training	7
Prohibited Substances	8
Prohibited Conduct	8
Drug Statute Conviction	9
Testing Requirements	9
Federal DOT Regulated Testing Procedures	10
Alcohol Testing Procedures	12
Pre-Employment Testing	13
Reasonable Suspicion Testing	14
Post-Accident Testing	15
Random Testing	16
Return-To-Duty Testing	17
Follow-Up Testing	17
Result Of Drug/Alcohol Test	18
Grievance and Appeal	20
Proper Application of The Policy	20
Information Disclosure	20
Attachments	
A-Contacts and Contractors	22
B-Safety Sensitive Job Classifications	23
C-Alcohol Abuse Fact Sheet	24
D-Drug Abuse Fact Sheet	26

DRUG AND ALCOHOL TESTING POLICY
Southwest Area Regional Transit District,
713 East Main
Street Uvalde,
Texas 78801

A. Purpose

The Southwest Area Regional Transit District (SWART) provides public transit services. 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, SWART declare that the unlawful manufacture, distribution, dispenses, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish 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 and breathe alcohol Federal DOT Regulated Testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result or test refusal. 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.

Any provisions set forth in this policy that are included under the sole authority of SWART and are not provided under the authority of the above named Federal regulations are underlined.

B. Applicability

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full, part- time, and substitute) when performing any transit-related business including those covered through leases of vehicles or subcontract of services. SWART's Public Transit employees that do not perform safety-sensitive functions are also covered under this policy. A safety-sensitive function is any duty related to the safe 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 person controlling the movement of revenue service vehicles and any other transit employee who is required to hold a Commercial Vehicle Operators License. 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 B. Supervisors are only safety sensitive if they perform one of the above functions.

A negative drug test result is a condition of employment.
Failure to abide by the terms of this policy will be grounds for the immediate termination of employment.

Reason for Termination:

- Any prohibited drug use on or off duty
- Test positive for prohibited Drug
- Test positive for Alcohol (.04 or greater)
- Receive a positive Drug or Alcohol test report (DOT/Non DOT) from previous employer. (See Forms)

Volunteers with a Commercial Vehicle Operators License (CDL), or receive remuneration for service in excess of actual expense, will be tested under DOT rules and regulations and placed in the DOT-Random Pool. Volunteer without a CDL and who do not receive remuneration for service in excess of actual expense, will be tested under Non-DOT and placed a Non-DOT Random Pool.

C. DEFINITIONS

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

1. An individual dies;
2. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
3. 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 concentration of an endogenous substance.

Alcohol means the intoxicating agent in beverage 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 measured by a test under 49 CFR Part 40.

Alcohol Screening Device (ASD) any and all approved device listed on ODAPC's website.

Canceled Test 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.

Confirmation 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 drug metabolite.

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 B for a list of Safety Sensitive employees)

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.

Department of Transportation (DOT) Modified to encompass all DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any designee of a DOT agency. For the purposes of testing under 49 CFR Part 40, the 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 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) Any and all approved devices as listed on ODAPC's website.

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

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

Invalid Drug Test is the result reported by the HHS-certified laboratory in accordance with the criteria established for a specific drug or specimen validity test.

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 Test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-Negative Test result is a test result found to be adulterated, substitute, invalid, or positive for drug/drug metabolites.

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 Test result means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BAC or greater.

Prohibited drug means marijuana, cocaine, Opioid, amphetamines, and

phencyclidine, at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

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

Safety-Sensitive functions include (a) the operation of a transit revenue service vehicle even when the vehicle is not in revenue service; (b) the operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the Vehicle Operator to hold a Commercial Vehicle Operators License (CDL); (c) maintaining a revenue service vehicle or equipment used in revenue service; (d) controlling the movement of a revenue service vehicle and (e) carrying a firearm for security purposes.

Substance Abuse Professional (SAP) A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or 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 A 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: The following are considered a refusal to test if the employee:

- Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- 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.
- 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.;
- In the case of a directly observed or monitored collection, fails to permit the observation or monitoring of your provision of a specimen
- 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
- Fails or declines to take a second test the employer or collector has directed you to take;
- Fails to undergo a medical examination or evaluation, as directed by the MRO, or as directed by the DER.

- Fails to cooperate with any part of the testing process.
- If the MRO reports that there is verified adulterated or substituted test result
- Fail or refusal to sign Step 2 of the alcohol testing form.
- Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- Possess or wear a prosthetic or other device used to tamper with the collection process.
- Admit to the adulteration or substitution of a specimen to the collector or MRO. Failure to remain readily available following an accident. **Verified negative test** means a 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 (DHHS).

Verified positive test means 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.

D. Education and Training

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. 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.

All supervisory personnel or company 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. Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in Attachment B of this policy.

E. Prohibited Substances

Prohibited substances addressed by this policy include the following:

Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 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 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, Opioid, 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. 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, as which cause drug or drug metabolites to be present in the body above the inimum thresholds is a violation of this policy

Federal Transit Administration State DOT Regulated Testing regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, Opioid , and phencyclidine as described in Section H of this policy. 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.

1. 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 General Manager (Drug and Alcohol Program Manager – DAPM) or Assistant General Manager. 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.
2. 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 and 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 SWART's General Manager (Drug and Alcohol Program Manager – DAPM) or Assistant General Manager or a trained supervisor authority, a NON-DOT alcohol test can be performed any time a covered employee is on duty.

E. Prohibited Conduct

1. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, 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.
3. SWART shall not permit any covered employee to perform or

- continue to perform safety-sensitive functions if it has actual knowledge that 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. SWART will not be responsible for compensation.
 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. SWART under its own authority also prohibits the consumption of alcohol at all times employee is on duty, or anytime the employee is in uniform.
 8. Consistent with the Drug-free Workplace Act of 1988, all SWART employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including SWART premises, transit and/or agency vehicles, and while in uniform or while on personal business.

G. Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the General Manager (Drug and Alcohol Program Manager – DAPM) or Assistant General Manager 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 this policy.

H. Testing Requirements

Analytical urine Federal DOT Regulated Testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40. All covered employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy. All covered employees who have tested positive for drugs or alcohol, or who refuse to test, on a random, reasonable suspicion or post-accident will be terminated.

A drug test can be performed any time a covered employee is on duty. A random or reasonable suspicion alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under SWART's trained management's authority, a NON-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to urine Federal DOT Regulated Testing and breath alcohol testing as a condition of ongoing employment with SWART. 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.3 of this policy. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. 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.

I. Federal DOT Regulated Testing Procedures

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 (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, 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 testing procedure, and the validity of the test result.

The drugs that will be tested for include 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. 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, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy. 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 DHHS 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, as amended.

The test results from the DHHS 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 Federal DOT Regulated Testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. 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 test 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 the employer. If a legitimate explanation is found, the MRO will report the test result as negative.

Any covered employee who questions the results of a required Federal DOT Regulated Test 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 DHHS-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, 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. The employee will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however, SWART may seek reimbursement.

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. Employees do not have access to a test of their split specimen following an invalid result.

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. 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.

Observed collections are required in the following circumstances:

- All return-to-duty tests;
- All follow-up tests;
- Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90°F - 100°F;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;

- Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
- Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

Procedures for direct observation Instructions

- raise clothing above waist
- lower clothing and underpants
- turn around to permit detection of any type of prosthetic or device

J. Alcohol Testing Procedures

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 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 at least 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, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

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

SWART 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.

K. Pre-Employment Testing

All applicants for covered transit positions shall undergo urine Federal DOT Regulated Testing prior to performance of a safety-sensitive function.

1. All offers of employment for covered positions shall be extended conditional upon the applicant passing a Federal DOT Regulated Test. An applicant shall not be hired into a covered position unless the applicant takes a Federal DOT Regulated Test with verified negative results,
2. A non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a Federal DOT Regulated Test with verified negative results
3. If an applicant fails a pre-employment Federal DOT Regulated Test, the conditional offer of employment shall be rescinded. Failure of a pre-employment Federal DOT Regulated Test will disqualify an applicant for employment. 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.
4. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
5. When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a Federal DOT Regulated Test with a verified positive result, the employee shall be subject for termination in accordance with Section Q herein.
6. If a pre-employment/pre-transfer test is canceled, SWART will require the applicant to take and pass another pre-employment Federal DOT Regulated Test.
7. In instances where a covered employee does not perform a safety-sensitive function for a period of 90 days or more regardless of reason, and the employee is not in the random testing pool during that time, the employee will be required to take a drug and alcohol test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
8. An applicant with a dilute negative test result will be required to

retest. 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.

Applicants are required (even if ultimately not hired) to provide SWART with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-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. SWART 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 USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide SWART proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. Reasonable Suspicion Testing

All SWART safety sensitive employees will be subject to a reasonable suspicion drug and/or alcohol test when there are reasons to believe that drug or alcohol use is impacting job performance and safety. Reasonable suspicion shall mean that there is objective evidence, based upon 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 supervisor who is 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 SWART 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.

A SWART supervisor or designated employee 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.4-5 and 9 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 terminated in accordance to Section Q.3 of this policy.

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 prior to the release of the test results. This written record shall be submitted to the General Manager (Drug and Alcohol Program Manager – DAPM) or Assistant General Manager and shall be attached to the forms reporting the test

results.

When there are no specific, contemporaneous, particularly 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 other substances to a supervisor in his/her chain of command, the employee shall be referred to the SAP for an assessment. The General Manager (Drug and Alcohol Program Manager – DAPM) or Assistant General Manager will then follow procedures to place the employee on administrative leave in accordance with the provisions set forth under Section Q.9 of this policy. Testing in this circumstance would be performed under the direct authority of the General Manager (Drug and Alcohol Program Manager – DAPM) or Assistant General Manager. 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.9.

M. Post-Accident Testing

FATAL – ACCIDENTS - A covered employee will be required to undergo urine and breathe 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, as determined by the employer using the best information available at the time of the decision.

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 one 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; or
- 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. 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 of the accident for alcohol, and within 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) eight hours, or the Federal DOT Regulated 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 SWART is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), SWART 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

All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

1. 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.
2. 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 online at <https://www.transportation.gov/odapc/random-testing-rates>.
3. 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 and notification of the individuals who are to be tested.
4. 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 employees that are included solely under SWART authority.

5. Random tests can be conducted at any time during an employee's shift for Federal DOT Regulated Testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under SWART authority, a NON-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
6. Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. Return-To-Duty Testing

SWART does not test for Return-To-Duty as the agency has in a place a zero tolerance requirement. Any safety sensitive employees who test positive for either a drug or alcohol will be immediately terminated.

However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, all return-to-duty testing will be conducted in accordance with 49 CFR Part 40.

"Zero Tolerance" The agency has a "Zero Tolerance" program, therefore any employee that has been tested and had a positive result on prohibited substances or an alcohol level of 0.04 or greater will immediately be removed from all safety sensitive duties and will not be employed by SWART. If a covered employee has an alcohol concentration of 0.02 or greater but less than 0.04, the agency will not permit the employee to perform a safety sensitive function. Employee will resume his/her next regularly scheduled duty period, but in no case, less than eight (8) hours following the administration of the test.

P. FOLLOW-UP TESTING

SWART does not test for Follow-Up Testing as the agency has in a place a zero tolerance requirement. Any safety sensitive employees who test positive for either a drug or alcohol will be immediately terminated.

However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, all follow-up testing will be conducted in accordance with 49 CFR Part 40.

Q. RESULT OF DRUG/ALCOHOL TEST

Any covered employee that has a verified positive drug test, an alcohol test result of 0.04 or above, or who refuses to test 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. SWART is a zero tolerance agency and the employee will be terminated.

A positive drug and/or alcohol test, or test refusal, will also result in disciplinary action as specified herein.

As soon as practicable after receiving notice of a verified positive Federal DOT Regulated Test result, a confirmed alcohol test result, or a test refusal, the SWART Drug and Alcohol Program Manager will contact the employee's supervisor to let the supervisor know the employee has been terminated.

- Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination. A test refusal includes the following circumstances.
 - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
 - b. 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.
 - c. Fail to attempt to provide a breath or urine specimen. 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 urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
 - e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
 - f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.
 - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
 - h. Fail to cooperate with any part of the testing process.
 - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
 - j. Possess or wear a prosthetic or other device used to tamper with the collection process.

- k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - m. Fail to remain readily available following an accident
- If an employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or more times within a six month period, the employee will be removed from duty and referred to his or her physician for a medical explanation to be submitted to SWART. A warning will be given to employee if there is no medical explanation consequences for positive testing will apply upon the third test result of ≥ 0.02 to ≤ 0.039 .
 - The cost of any treatment or rehabilitation services will be paid directly by the employee. SWART is a zero tolerance agency and will not be responsible for medical treatment, the employee will be terminated immediately, and no accrued vacation time will be given to the employee.
 - In the instance of a self-referral disciplinary action against the employee shall include:
 - a. Be considered as a positive test result in relation to the progressive discipline defined in Section Q.4-5 of this policy.
 - b. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

MRO VERIFICATION OF PRESCRIPTIONS

When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee's prescribing physician before notifying the employer of a medical qualification issue or significant safety risk.

Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements, or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149(c) for a positive test or test refusal is not subject to arbitration.

PROPER APPLICATION OF THE POLICY

SWART 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.

S. INFORMATION DISCLOSURE

Drug / Alcohol testing records shall be maintained by the General Manager (Drug and Alcohol Program Manager – DAPM) and Assistant General Manager and, except as provided below or by law, the results of any drug / alcohol test shall not be disclosed without express written consent of the tested employee.

1. 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.
2. Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor and Personnel Manager on a need to know basis.
3. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
4. 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 arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding. The information will only be released with binding stipulation from the decision maker will make it available only to parties in the process. .
5. Records will be released to the National Transportation Safety Board during an accident investigation.
6. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

7. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over SWART or the employee.
8. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 necessary legal steps to contest the issuance of the order will be taken
9. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

ATTACHMENT A: CONTACTS AND CONTRACTORS

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

Drug and Alcohol Program Manager:

Name: Sarah Hidalgo-Cook

Title: General Manager

Address: 713 East Main Street

Uvalde, Texas 78801

Telephone Number: 830-278-4155

Name: Cynthia Rodriguez (back up)

Title: Assistant General Manger

Address: 713 East Main Street

Uvalde, Texas 78801

Telephone Number: 830-278-4155

Medical Review Officer

Name: Raymond G. Armstrong, M.D.

Address: 6704 Guada Coma Drive

Schertz, Texas 78154

Telephone Number: 210-967-6169

FAX Number: 210-967-9233

Collection Site – Drug and Alcohol

Southwest Area Regional Transit District

Address: 713 East Main Street

Uvalde, Texas 78801

Telephone: 830-278-4155

Certified Collectors: Cynthia Rodriguez

Certified Collectors: Frank Villalobos

Third Party Administrator: Compliance Associates LP DBA CMI

Address: 6704 Guada Coma Drive

Schertz, Texas 78154

Telephone Number: 210-967-6169

FAX Number: 210-361-8989

DHHS Certified Laboratory Primary Specimen

Name: CLINICAL Reference Lab

Address: 8433Quivira

Lenexa, Kansas 66215

ATTACHMENT B SAFETY SENSITIVE JOB CLASSIFICATIONS

The following Job Classifications have reviewed and accepted as Safety Sensitive positions:

Operations Manager (holds a CDL)

Trainer (holds a CDL)

Dispatchers/Schedulers

Fleet Manager (holds a CDL)

Vehicle Technicians (holds a CDL)

Vehicle Technician Clerks/Assistants (holds a CDL)

Vehicle Operator – Full Time (holds a CDL)

Vehicle Operator – Part Time (holds a CDL)

Vehicle Operator – Substitute (holds a CDL)

Vehicle Operators covered due to leasing and/or outsourcing of vehicles
(holds a CDL)

Vehicle Operators covered due to outsourcing of transit services.

ATTACHMENT C ALCOHOL FACT SHEET

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 stupor us condition
- Slowed reaction rate
- Slurred speech

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

Health Effects:

- The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:
- 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 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 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:

- 24,000 people will die on the highway due to the legally impaired Vehicle Operator.
- 12,000 more will die on the highway due to the alcohol-affected Vehicle Operator.
- 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.

ATTACHMENT D DRUG USE FACT SHEET

Effects of Drug Misuse

FTA requires that the Policy include a discussion of the effects of drug misuse on an individual's health, work, and personal life; signs and symptoms of a drug problem; and available methods of intervening when a drug problem is suspected.

Marijuana

Health Effects:

Emphysema-like conditions

- One joint of marijuana contains cancer-causing substances equal to ½ pack of cigarettes.
- One joint causes the heart to race and be overworked. People with heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus infections.
- Marijuana lowers the body's immune system response, making users more susceptible to infection.
- User's mental function can display the following effects: Delayed decision making Diminished concentration Impaired short-term memory Impaired signal detection Impaired tracking Erratic cognitive function Distortion of time estimation

Workplace Issues:

- THC is stored in body fat and slowly released.
- Marijuana smoking has long-term effects on performance.
- Increased THC potency in modern Marijuana dramatically compounds the side effects.
- Combining alcohol or other depressant drugs with Marijuana increases the impairing effect of both.

Cocaine

When abused, it becomes a powerful physical and mental stimulant. The entire nervous system is energized. Muscles tense, the heartbeats faster and stronger, and the body burn more energy. The brain experiences exhilaration caused by a large release of neurohormones associated with mood elevation.

Health effects:

- Regular use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing damage to critical nerve cells. Parkinson's disease could also occur.

- Cocaine causes the heart to beat faster, harder, and rapidly increases blood pressure. It also causes spasms of blood vessels in the brain and heart. Both lead to ruptured vessels causing strokes and heart attacks.
- Strong dependency can occur with one “hit” of cocaine, usually mental dependency occurs within days for “crack” or within several months for snorting coke. Cocaine causes the strongest mental dependency of all the drugs.
- Extremely dangerous when taken with other depressant drugs. Death due to overdose is rapid.

Workplace Issues:

- Extreme mood and energy swings create instability. Sudden noise causes a violent reaction.
- Lapses in attention and ignoring warning signals increases probability of accidents.
- High cost frequently leads to theft and/or dealing.
- Performance is characterized by forgetfulness, absenteeism, tardiness, and missing assignments.

Opioid

Narcotic drugs that alleviate pain and depress body functions and reactions.

Health Effects

- IV needle users have a high risk of contracting hepatitis or AIDS when sharing needles.
- Increase pain tolerance. As a result, a person may more severely injure him or herself and fail to seek medical attention as needed.
- Narcotic effects are multiplied when combined with other depressants causing an increased risk for an overdose.
- Because of tolerance, there is an ever-increasing need for more.
- Strong mental and physical dependence occurs.

Workplace Issues:

- Side effects such as nausea, vomiting, dizziness, mental clouding and drowsiness place the user at high risk for an accident.
- Causes impairment of physical and mental functions.

Amphetamines

Central nervous system stimulant that speeds up the mind and body,

Health Effects:

- High dose may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to increased blood pressure.
- Chronic use may cause heart or brain damage due to severe constriction of capillary blood vessels.
- Withdrawal may result in severe physical and mental depression

Workplace Issues

- Since the drug alleviates the sensation of fatigue, it may be abused to increase alertness during periods of overtime or failure to get rest.
- With heavy use for decreasing fatigue, the short-term mental or physical enhancement reverses and becomes impairment.

Phencyclidine (PCP)

Often used as a large animal tranquilizer. Abused primarily for its mood altering effects. Low doses produce sedation and euphoric mood changes. Mood can rapidly change from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare. Sudden noises or physical shocks may cause a “freak out” in which the person has abnormal strength, violent behavior and an inability to speak or comprehend.

Health Effects

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with the anesthetic effect on the body.
- If misdiagnosed as LSD induced, and treating with Thorazine, can be fatal.
- Irreversible memory loss, personality changes, and thought disorders may result.

Workplace Issues

- Drug induced schizophrenia.
- Induced depression that may create suicidal tendencies and mental dysfunction.
- Toxic psychosis with visual and auditory delusions, paranoia and agitation.

Ecstasy (MDA)

MDMA causes an increase in serotonin which plays an important role in the regulation of mood, sleep, pain, appetite, and other behaviors. Users experience long lasting confusion, depression, and selective impairment of working memory and attention processes. Ecstasy users make extremely dangerous Vehicle Operators. They can exhibit the same impairments as amphetamine, heroin, cocaine, and hallucinogen users. Some ways driving ability is affected by ecstasy use include:

- Slowed thinking and reflexes – making reaching difficult.
- Distorted visual and depth perception
- Difficulty making complex decisions
- Lengthened glare recovery time
- Overly confident in driving skills and judgment
- Lapses in attention and concentration – Vehicle Operator is unable to display continuous attention
- Distorted vision
Auditory and visual hallucinations