

Mendocino Transit Authority

Board of Directors

Regular Meeting Agenda

September 27, 2012

1:30 pm

Fort Bragg

Video-Conferenced with:

Ukiah

Diana Stuart Fort Bragg Division
190 East Spruce
Conference Room

Ukiah Valley Conference Center
200 South School Street
Riesling Room

AGENDA ITEM	PAGE
1. Call to Order Public Comment: Anyone is welcome to attend MTA Board meetings to address items that are on the agenda, or to bring other transit related matters to the attention of the Board. The time limit is 3 minutes per speaker.	

CONSENT CALENDAR

2. Minutes of August 23, 2012 Board Meeting <u>Action:</u> Approve	1
3. Service Performance Report: <u>Information.</u>	No Report
4. Financial Report: <u>Information.</u>	No Report
5. Board Meeting Dates and Locations <u>Information.</u>	5
6. Capital Program: Update/Progress Report <u>Information.</u>	No Report

ACTION & DISCUSSION

7. Unmet Transit Needs: Ukiah <u>Action:</u> Solicit Input	oral
8. Mobility Management Program: Update <u>Information.</u>	oral

continued . . .

<u>AGENDA ITEM</u>	<u>PAGE</u>
9. New Web Site Launch <u>Information.</u>	oral
10. Facility Solarization & Modernization Program: Maintenance Facility Project Update <u>Information.</u>	oral
11. Facility Solarization & Modernization Program: Solar Canopy Project Update <u>Information.</u>	oral
12. Personnel Policies: Drug & Alcohol Testing <u>Action:</u> Re-review Adopted Policy	7
13. Performance of New Transit Services <u>Information.</u>	59
14. 2012 STIP: New Capital Revenue <u>Action:</u> Initial Discussion	61
15. General Manager Retirement <u>Action:</u> Develop Board Process	63
16. Management Report	oral
17. Matters from Directors	oral

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL -- ANTICIPATED LITIGATION pursuant to Government Code 54956.9(b)(3)(C) re: Liability.

CONFERENCE WITH LEGAL COUNSEL -- ANTICIPATED LITIGATION pursuant to Government Code 54956.9(c).

ADJOURN Anticipated adjournment is 3:00 pm

Americans With Disabilities Act (ADA) Compliance

The Mendocino Transit Authority complies with ADA requirements and, upon request, will attempt to reasonably accommodate individuals with disabilities by making meeting material available in appropriate alternative formats (pursuant to Government Code Section 54953.2). Anyone requiring reasonable accommodation to participate in the meeting should contact the Administrative Secretary by calling (707) 462-5765 at least five days prior to the meeting.

Agenda #2

Mendocino Transit Authority

Board of Directors

Regular Board Meeting August 30, 2012 Point Arena

Present: Courtney, Tarbell, Cross, Mastin
Staff: Butler, Richard, Blake
Excused: Hanson, Pinches, Thomas
Others: Driver Vernon McNamee, Driver Jeff Gyving

Chair **Mastin** called the Meeting to order at 1:30 PM.

Chair **Mastin** asked for Public Comment; there was no public comment.

CONSENT CALENDER

Agenda Item #2: Minutes August 15, 2012 Special Board Meeting
Agenda Item #3: Service Performance Report: No Report
Agenda Item #4: Financial Report: No Report
Agenda Item #5: Board Meeting Dates and Locations: Approve Revision
Agenda Item #6: Capital Program: Update/Progress Report

Moved by Dir. **Cross** and Seconded by Dir. **Courtney** to approve Consent Calendar Items #2 through 6. Motion approved by those present. Absent: Dirs. **Hanson, Pinches, Thomas**

Agenda Item #7: Unmet Transit Needs for the South Mendocino Coast: Solicit Public Input: Driver **McNamee** identified a need for a Shuttle service between Point Arena, along the ridge to Gualala and to the Sea Ranch Apartments. Dir **Cross** supported the suggestion.

Agenda Item #8: Mobility Management Program Update: This item was presented by Marketing/Planning Manager **Blake** for information and discussion only, no action was taken by the Board.

Agenda Item #9: New Web Page and Rider Guide Update: This item was presented by Marketing/Planning Manager **Blake** for information and discussion only, no action was taken by the Board.

Agenda Item #10: Facility Solarization and Modernization: Solar Canopy: Award Contract for Design: Adopt Resolution 2012-12.

Item presented by GM **Richard**. Maintenance Facility project is just inches from being completed. Funding is about 99% spent or committed, will come in close to budget. He stated it is beautiful, state of the art and green.

He reviewed the Request for Qualifications (RFQ) staff sent to qualified proposers for the design of the Solar Canopy. MTA received three sets of qualifications statements by the deadline of August 14, 2012. **Richard, Butler** and MCOG's **Phil Dow** had selected the team led by Hise Architects. **Richard** had negotiated a contract with Thomas Hise for a price not to exceed \$35,300. Staff recommends the Board adopt Resolution 2012-12 awarding the contract.

Moved by Dir. **Tarbell** Seconded by Dir. **Courtney** to adopt Resolution 2012-12, awarding the contract to Hise Architects for a price not to exceed \$35,300.

Motion Approved by a Roll Call vote:

AYES: Courtney, Tarbell, Cross, Mastin
NO: None
ABSTAIN: None
ABSENT: Hanson, Pinches, Thomas

Agenda Item #11: Personnel Policies: Drug and Alcohol Testing:

Amend: Action: Adopt Resolution 2012-13: Item presented by GM **Richard**. He explained that MTA was audited on their Drug and Alcohol Policies. Biggest finding was to revise MTA's current policy to reflect the technical and regulatory changes that have occurred since the Board first adopted the policies in 2006.

Chair **Mastin** was concerned that this policy be reviewed by the Union. Dir. **Cross** was concerned he had not seen the current policy. He would like to see changes in underline/strike-out format. GM **Richard** recommended that the policy be approved today to meet the audit requirements, then the Board can amend afterward if necessary.

Moved by Dir. **Courtney** to adopt Resolution 2012-13, Seconded by Dir. **Cross**. After discussion, the motion was withdrawn.

Moved by Dir. **Cross** Seconded by Dir. **Courtney** to adopt Resolution 2012-13, approving the revision of Article VIII of the Personnel Policies on Drug and Alcohol Policy with the

provision that the policy will be brought back to the Board after Union review, in underline/strike-out format, with clarification of the definition of "accidents", and with the new revision to be available electronically.

Motion Approved by a Roll Call vote:

AYES: Courtney, Tarbell, Cross and Mastin
NO: None
ABSTAIN: None
ABSENT: Hanson, Pinches, Thomas

Agenda #12: Electronic Board Packets and Posting: Discussion:

Item presented by GM **Richard**. He asked if the Board wanted future packets sent electronically. Dir. **Courtney** suggested we use Dropbox. She will look into security and Brown Act issues. Chair **Mastin** suggested that staff scan the packet and post it on the website, then notify Board members by email they are available on the website. Board members may also request hard copies if desired. All members in attendance supported the Chair's proposed approach.

Agenda Item # 13: Management Report: Marketing and Planning Manager **Blake** thanked those that attended the Grand Opening of the Maintenance Facility.

Maintenance Manager **Butler** shared that the maintenance staff is in process of moving into the new Maintenance Facility and work is being done there.

Agenda Item # 14: Matters from Directors: Dir. **Courtney** reported she tried to show photos of the Maintenance Facility to the Fort Bragg City Counsel with some degree of success.

Closed Session

GM Richard announced that Closed Session included two items:
1) Conference with Legal Counsel - Anticipated Litigation pursuant to Government Code 54956.9(b) (3) (C) and 2) Government Code 54956.9 (c).

Moved to Close Session at 3:15 PM

Meeting Reopened to Public Session at 3:45 PM

Report Out of Closed Session at 3:45 PM: Chair **Mastin** stated there was no reportable action.

Meeting Adjourned at 3:45 PM.

Chair, Mastin


Glenna Blake, Marketing & Planning

Board of Directors Meeting Schedule

Fourth Thursday of January through October

Third Thursday of November and December

Date	Time	Location	Video Conference With	Major Agenda Items
2012				
July 26	1:30	Willits	only	<i>Solar Canopy: Approve Schedule</i> 2013/14 Transit Needs: Willits
August 15	1:30	Ukiah	Fort Bragg	<i>Special Meeting</i> , Closed Session
August 30	1:30	Point Arena	only	<i>Solar Canopy: Award Design Contract</i> 2013/14 Transit Needs: Point Arena
September 27	1:30	Ukiah	Fort Bragg	2013/14 Transit Needs: Ukiah
October 25	1:30	Fort Bragg	Ukiah	<i>Solar Canopy: Mid Design Cost Est Review</i> 2013/14 Transit Needs: Fort Bragg
November 15	1:30	Ukiah	Fort Bragg	<i>Solar Canopy: Award Construction Contract</i>
December 20	1:30	Fort Bragg	Ukiah	
2013				
January 24	1:30	Ukiah	Fort Bragg	
February 28	1:30	Willits	only	Initial 2013/14 Budget Discussion
March 28	1:30	Fort Bragg	Ukiah	DRAFT 2013/14 Budget & Claim
April 25	1:30	Point Arena	only	Proposed 2013/14 Budget
May 23	1:30	Fort Bragg	Ukiah	Proposed 2013/14 Budget
June 27	1:30	Ukiah	Fort Bragg	FINAL 2013/14 Budget

Agenda Item #12

To: MTA Board of Directors
From: Sally Webster, Finance & Personnel Manager
Date: September 18, 2012
Subj.: Personnel Policy Revision – Drug & Alcohol Testing Policy

Last month, the Board adopted the Drug & Alcohol Testing Policy with a provision that the policy be brought back to the Board for further clarification. Under separate cover, I have attached a copy of the old policy (adopted December 20, 2007), with strike-outs/edits in red reflecting the changes from the old policies to the new. Also attached is the new policy, with areas that are highlighted to reflect new additions to the policy.

The revisions to the policy are a result of the most recent audit of our Drug & Alcohol Program. There have been minor technical changes and regulatory amendments that have occurred since the last adoption of the policy (ie, ecstasy has been added to the list of drugs). The new revised policy stemmed from a template provided by the FTA, which had been reviewed and approved by them. The parts of the policy that are not underlined are stipulated by the FTA program, and are not subject to revision. The items that are underlined, are under MTA authority.

The new policy is more specific as far as clarification of the policy itself, such as added definitions and more detailed procedures. The FTA also wanted separation of what was considered their policy, and what the transit agencies were doing under their own authority. When the Board adopted the policy in 2007, MTA was not drug testing under their own authority, however, MTA adopted some policies under their own authority that enhanced the existing policy (ie, process of reasonable suspicion testing), or consequences to violations of the FTA policy (ie, test refusals result in termination). The format of underlining MTA's authority was used in the 2007 policy as well. Since our last policy revision, MTA is now testing Ag Worker Drivers under their own authority, and more specific language was added (underlined) to accommodate this.

Other questions/comments made by the Board were the following:

Union Review of Policy:

The Drug & Alcohol Policy is not part of the Collective Bargaining Agreement, as the union does not have control over the FTA Drug Testing Program, and therefore, it remains under MTA's Personnel Policies. In negotiations, the union's interest was for a 'second chance' policy, which has been part of our Policy from inception. A second chance policy allows an employee who tests positive for drugs or alcohol, to go through rehabilitation, and have the ability to come back to work under strict guidelines (see

Section Q of the policy). All sensitive safety employees receive and acknowledge receipt of this policy (per FTA guidelines).

Definition of 'Accidents:

The definition can be found on Page 2 of the policy, Section C - *Accidents*. This is a comprehensive program, with training and resources available to employers and employees as well. In the case of an accident, each supervisor is trained on how to proceed with the testing requirements. A decision tree is placed in each accident kit to aid in the process, and if help is needed, the Drug & Alcohol Program Manager is contacted.

Electronic Copies:

Electronic copies of the FTA US Department of Transportation 49 CFR Part 40, 49 CFR Part 655 (the regulations that mandate this program), and of this Policy are available at any time, per FTA guidelines. Exhibit B is a contact sheet for any employee who may want to question the policy or procedure itself.

I will be available for any further explanation should there be additional questions or comments.

ARTICLE VIII
DRUG AND ALCOHOL TESTING POLICY
Mendocino Transit Authority
Adopted December 20, 2007

OLD
Policy

A. PURPOSE

The Mendocino Transit Authority (MTA) provides public transit and paratransit services for the residents of Mendocino County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, MTA declares that the unlawful manufacture, distribution, dispense, 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 drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

Any provisions set forth in this policy that are included under the sole authority of the MTA and the provisions that 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-time, part-time, or casual) when performing safety sensitive duties. A safety-sensitive function is operation of mass 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 Drivers 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 who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above

functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remunerated for service in excess of actual expense.

C. DEFINITIONS

Accident means an occurrence associated with the operation of a vehicle even when not in revenue service 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 incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

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

Alcohol 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 an evidential breath testing device.

Canceled Test is a drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

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

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) Department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

Dilute specimen A specimen with creatinine and specific gravity values that are 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, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT) A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety administration (NHTSA) conforming products list.

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 result for a drug 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 for a drug test 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, opiates, amphetamines, or 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 or that require a CDL to operate. Include all ancillary vehicles used in support of the transit system.

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 driver to hold a Commercial Drivers 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) means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) 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 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 (excluding pre-employment) 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;
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- 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 as part of the verification process, or as directed by the DER as

- part of the "shy bladder" or "shy lung" procedures
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
- if the MRO reports that there is verified adulterated or substituted test result
- Failure or refusal to sign Step 2 of the alcohol testing form.

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

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

Validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

D. EDUCATION AND TRAINING

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

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:

- (1) 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, opiates, 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.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, opiates, 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.

*expanded to further define
amphetamin
&
opiates*

(2) Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

(3) 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. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions.

F. 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 and subject to discipline.
- (3) The Transit Department 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 0.02 or greater regardless of when the alcohol was consumed.
- (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) Mendocino Transit Authority under its own authority also prohibits the consumption of alcohol at all times when the employee is on duty, or anytime the employee is in uniform.
- (8) Consistent with the Drug-free Workplace Act of 1988, all MTA employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including Transit Department premises and transit vehicles,

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the MTA management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q.10 of this policy.

H. TESTING REQUIREMENTS

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49CFR part 40 as amended. All covered employees shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.

All covered employees who have tested positive for drugs or alcohol will be tested prior to returning to duty after completion of the Substance Abuse Professional's recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty for a period of one to five years, with at least six tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be at the discretion of the Substance Abuse Professional.

A drug test can be performed any time a covered employee is on duty. An alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function.

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Mendocino Transit Authority. 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.

Moved to return to Duty Testing

More detail IS

Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal and will result in the employees' removal from duty and disciplined as defined in Section Q.3 of this policy. Refer to Section C 3 for behavior that constitutes a refusal to test.

I. DRUG 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 (HHS). 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 drug testing procedure, and the validity of the test result.

The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for 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 MTA Drug and Alcohol Program Manager (DAPM), (the Personnel Manager). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM and no further action will be taken.

If the test is invalid with out a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug 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 HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. 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. MTA will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however MTA will seek reimbursement for the split sample test from the employee.

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 and will direct MTA to retest the employee under direct observation.

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 is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. 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.

Observed collections

Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- (1) The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to MTA that there was not an adequate medical explanation for the result; or
- (2) The MRO reports to MTA that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
- (3) The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen or
- (4) The temperature on the original specimen was out of range.

In addition, MTA may direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test.

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). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. 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.4-5 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.9 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

The Transit Department 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.

The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

All applicants for covered transit positions shall undergo urine drug testing ~~and breath alcohol 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 drug test. An applicant shall not

- be placed into a safety -sensitive position unless the applicant takes a drug 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 drug test with verified negative results.
 - (3) If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least twenty four months. The applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
 - (4) When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q.4-5 and 9 herein.
 - (5) If a pre-employment/pre-transfer test is canceled, MTA will require the applicant to take and pass another pre-employment drug test.
 - (6) In instances where a covered employee is on extended leave for a period of 90 days or more regardless of reason, and is not in the random testing pool the employee will be required to take a drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
 - (7) An applicant with a dilute negative test result will be required to retest.
 - (8) Applicants are required to report previous DOT covered employer drug and alcohol test results—Failure to do so will result in the employment offer being rescinded. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer. The applicant must provide MTA 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 MTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. 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 or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work

performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

MTA 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 placed on administrative leave pending disciplinary action as specified in 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. This written record shall be submitted to the MTA management and shall be attached to the forms reporting the test results.

M. POST-ACCIDENT TESTING

All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service 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 cannot be completely discounted as a contributing factor to the accident.

In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

- (1) 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.
- (2) The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours 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 drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

- (7) 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.
- (8) 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.
- (9) 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.
- (10) In the rare event that MTA is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), MTA 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 established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
- (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.

- (4) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool.
- (5) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive 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

All covered employees who previously tested positive on a drug or alcohol test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug-and alcohol-free and there are no undo concerns for public safety.

P. FOLLOW-UP TESTING

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

Q. RESULT OF DRUG/ALCOHOL TEST

Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of the educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.

A drug test with the result of negative dilute will not be retested, unless the MRO directs MTA to conduct a recollection under direct observations due to the creatinine

concentration of the specimen being equal to or greater than 2 mg/dl, but less than or equal to 5 mg/dl.

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

- (1) As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the MTA's Drug and Alcohol Program Manager (the Personnel Manager or his/her representative) will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
- (2) The employee shall be referred to a Substance Abuse Professional for an assessment. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.
- (3) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination. A test refusal includes the following circumstances.
 - (a) A covered employee who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests.
 - (b) A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
 - (c) A covered employee who provides false information in connection with a drug test.
 - (d) A covered employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall take place within 5 days of the initial test attempt
 - (e) A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame.
 - (f) A covered employee whose urine sample has been verified by the MRO as substitute or adulterated.
 - (g) A covered employee fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer
 - (h) A covered employee fails to remain at the testing site until the testing process is complete;
 - (i) A covered employee fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
 - (j) A covered employee fails to permit the observation or monitoring of a specimen collection
 - (k) A covered employee fails or declines to take a second test the employer or collector has directed you to take;

Covered in post accident

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- (l) A covered employee 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 as part of the "shy bladder" or "shy lung" procedures
- h
- (m) A covered employee fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
- j.
- (n) Failure to sign Step 2 of the Alcohol Testing form
- (4) For the first instance of a verified positive test from a sample submitted as the result of a random, drug/alcohol test (≥ 0.04 BAC), disciplinary action against the employee shall include:
- (a) Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
- (b) Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from employment.
- ◆ Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgement of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy;
- (c) Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
- (d) A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from employment. *0.02*
- (5) The second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result including a sample submitted under the random, reasonable suspicion, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from employment.
- (6) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer.
- (7) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee may be permitted to take a rehabilitation leave pursuant to Section 7.3.7 of MTA's Personnel Policies in order to participate in the SAP prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program

and releases him/her to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

- (10) (8) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

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

S. PROPER APPLICATION OF THE POLICY

MTA is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- (1) Drug/alcohol testing records shall be maintained by the MTA Drug and Alcohol Program Manager (Personnel 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.

- (2) (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 referrals and follow-up testing plans.

- (3) (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.

- (4) (3) Records will be released to a subsequent employer only upon receipt of a written request from the employee.

- (5) (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 preceding. ~~The information will only be released with binding stipulation from the~~

~~decision maker will make it available only to parties in the proceeding.~~

- (6) Records will be released to the National Transportation Safety Board during an accident investigation.
- (7) (5) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- (8) (6) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- (9) (7) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Mendocino Transit Authority or the employee.
- (10) (8) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended necessary legal steps to contest the issuance of the order will be taken
- (11) (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.

U. SYSTEM CONTACTS

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

Personnel Manager, Drug and Alcohol Program Manager:

Name: Sally Webster
Title: Finance/Personnel Manager
Address: 241 Plant Road, Ukiah, CA 95482
Telephone Number: 707-462-5765 x 110

Medical Review Officer

Name: Sara Rinck, Central Drug Systems, Inc
Title: Medical Doctor
Address: 16560 Harbor Blvd, Ste A, Fountain Valley, CA 92708
Telephone Number: 714-418-01

Substance Abuse Professional

Name: Robert Bruner
Title: National SAP Network
Address: 1615 Orange Tree Lane, Suite 101, Redlands, CA 92374
Telephone Number: 800-879-6428

HHS Certified Laboratory Primary Specimen

Name: Medtox Laboratories, Inc
Address: 402 W. County Rd D, St. Paul, MN 55112
Telephone Number: 651-636-7466

HHS Certified Laboratory Split Specimen

Name: Quest Laboratories
Address: 7600 Tyrone Ave, Van Nuys, CA 91405
Telephone Number: 800-877-2520

This Policy was adopted by the Mendocino Transit Authority on December 20, 2007.

Attachment A

Administration Covered Classifications

Transportation Manager
Transportation Superintendent
Operations Supervisor
Dispatcher
Dispatcher – Bilingual
Assistant Dispatcher

Job Classifications

Transit Vehicle Operator
Substitute Driver
Driver Trainer
Driver in Training
Maintenance Manager
Mechanic
Mechanic's Helper
Cleaner

**Attachment B
Alcohol Fact Sheet**

Memorated

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

Signs and Symptoms of Use

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

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

Health Effects

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 driver.
 - 12,000 more will die on the highway due to the alcohol-affected driver.
 - 15,800 will die in non-highway accidents.
 - 30,000 will die due to alcohol-caused liver disease.
 - 10,000 will die due to alcohol-induced brain disease or suicide.
 - Up to another 125,000 will die due to alcohol-related conditions or accidents.
- Workplace Issues
- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
 - Impairment in coordination and judgement 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 C
Minimum Thresholds

Eliminated

INITIAL TEST CUTOFF LEVELS
(ng/ml)

Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000
Phencyclidine	25
Amphetamines	1,000

CONFIRMATORY TEST
CUT/OFF LEVELS (ng/ml)

Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamines	500
Methamphetamine	500

ARTICLE VIII
DRUG AND ALCOHOL TESTING POLICY
Mendocino Transit Authority
Adopted August 30, 2012

New
Policy

A. PURPOSE

The Mendocino Transit Authority (MTA) provides public transit and paratransit services for the residents of Mendocino County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, MTA declares that the unlawful manufacture, distribution, dispensing, 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 drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

Any provisions set forth in this policy that are included under the sole authority of the MTA and the provisions that are not provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of MTA will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

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

A safety-sensitive function is operation of mass 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 personnel controlling the movement of revenue service vehicles and any other transit employee who is required to hold a Commercial Drivers 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 who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: 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 is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors 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: 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 an evidential breath testing device.

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

Canceled Test: A drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

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

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

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

Covered Employee Under Company (MTA) Authority: An employee, applicant, or transferee that will not perform a safety-sensitive function as defined by FTA but is included under the company's own authority. (See Attachment A)

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

Department of Transportation (DOT): Department of the federal government which includes the Federal Transit Administration, Federal Railroad Administration, Federal Aviation Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

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

Disabling damage: 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, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

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

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

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

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

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

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

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

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

Negative result: The result reported by an HHS-certified laboratory to a MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative test result: A urine specimen that is reported as adulterated, substitute, invalid, or positive for drug/drug metabolites.

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

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

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

Prohibited drug: Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

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

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

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

Safety-sensitive functions: Employee duties identified as:

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

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

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state licensed marriage and family therapist, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse), (ICRC) or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC)) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

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

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- (2) Fails to remain at the testing site until the testing process is complete;
- (3) Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations;
- (4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen;
- (5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- (6) Fails or declines to take a second test the employer or collector has directed you to take;
- (7) 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 as part of the "shy bladder" or "shy lung" procedures;
- (8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- (9) If the MRO reports that there is verified adulterated or substituted test result;
- (10) Failure or refusal to sign Step 2 of the alcohol testing form;
- (11) Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- (12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
- (13) Admit to the collector or MRO that you adulterated or substituted the specimen.

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

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

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

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or 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.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following:
 - a. 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 (including methamphetamine and ecstasy), opiates (including heroin), 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.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA Authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section H of this policy. Employees covered under MTA authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a MTA supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

Underlined now

c. 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. An alcohol test can 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 MTA authority, a non-DOT alcohol test can be performed any time an employee is on duty.

F. PROHIBITED CONDUCT

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a 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 and subject to discipline.
- 3) The Transit Department 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 0.02 or greater regardless of when the alcohol was consumed.
- 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) Mendocino Transit Authority under its own authority also prohibits the consumption of alcohol at all times when the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all MTA employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles,

G. DRUG STATUTE CONVICTION

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

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted using the testing methodologies and thresholds defined in 49CFR part 40 as amended. All employees covered under FTA authority shall be subject to testing, prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under MTA authority, a non-DOT alcohol test can be performed any time an employee is on duty.
- 3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Mendocino Transit Authority. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the

employee, the integrity of the drug testing procedure, and the validity of the test result.

- 2) The drugs that will be tested for include marijuana, cocaine, opiates (including heroin), amphetamines (including methamphetamine and ecstasy), and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for 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 MTA Drug and Alcohol Program Manager (DAPM), (the Personnel Manager). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.
- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug 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 HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. 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. MTA will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however MTA will seek reimbursement for the split sample test from the employee.

- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct MTA to retest the employee under direct observation.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. 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.
- 8) Observed collections
 - a. Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
 - i The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to MTA that there was not an adequate medical explanation for the result;
 - ii The MRO reports to MTA that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
 - iii The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1));

- iv The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v The temperature on the original specimen was out of range;
- vi Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- vii All follow-up tests; or
- viii All return-to-duty tests.

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) MTA affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing

procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant shall not be placed into a safety-sensitive functions unless the applicant takes a drug test with verified negative results.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA or company authority until the employee takes a drug test with verified negative results.
 - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded, and the applicant will be referred to a SAP. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least twenty four months. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
 - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA or MTA authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
 - e. If a pre-employment test is canceled, MTA will require the applicant to take and pass another pre-employment drug test.
 - f. In instances where a FTA covered employee is on extended leave for a period of 90 consecutive days or more regardless of reason, and is not in the random testing pool the employee will be required to take a drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

- g. 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.
- h. Applicants are required (even if ultimately not hired) to provide MTA with signed written releases requesting FTA drug and alcohol records from all previous DOT covered employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. MTA is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide MTA proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All MTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. 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 or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under MTA authority, a 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.
- 2) MTA shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q. of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall

immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.

- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the MTA management and shall be attached to the forms reporting the test results.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. MTA shall place the employee on rehabilitation leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the MTA. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

- 1) All employees covered under FTA authority will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service 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 cannot be completely discounted as a contributing factor to the accident.
- 2) In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.
 - a. 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.

- b. The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- c. 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.
- d. 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.
- e. 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.
- f. In the rare event that MTA is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), MTA may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. Employees covered under FTA authority will be selected from a pool of DOT-covered safety-sensitive employees. 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.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty five percent of the number of covered employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered employees in the pool.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under MTA's authority, a non-DOT random alcohol test may be performed any time the employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug-and alcohol-free and there are no undo concerns for public safety.

P. FOLLOW-UP TESTING

Covered employees will be required to undergo frequent, unannounced drug and/ or alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year.

The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of the educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
- 2) A drug test with the result of negative dilute will not be retested, unless the MRO directs MTA to conduct a recollection under direct observations due to the creatinine concentration of the specimen being equal to or greater than 2 mg/dl, but less than or equal to 5 mg/dl.
- 3) A positive drug and/or alcohol test will also result in disciplinary action as specified herein.
 - a. After receiving notice of a verified positive drug test result or a confirmed alcohol test result, the MTA's Drug and Alcohol Program Manager (the Personnel Manager or his/her representative) will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
 - b. The employee shall be referred to a Substance Abuse Professional for an assessment. The SAP will evaluate each employee to determine what assistance the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.
- 4) Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination and referral to an SAP. A test refusal includes the following circumstances.
 - a. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
 - b. Fails to remain at the testing site until the testing process is complete

- c. Fails to attempt to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- d. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen
- e. Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- f. Fails or declines to take a second test the employer or collector has directed you to take
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures
- h. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- i. If the MRO reports that there is verified adulterated or substituted test result
- j. Failure or refusal to sign Step 2 of the alcohol testing form
- k. Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- l. Possess or wear a prosthetic or other device that could be used to interfere with the collection process
- m. Admit to the collector or MRO that you adulterated or substituted the specimen

- 5) For the first instance of a verified positive test from a sample submitted as the result of a random, drug/alcohol test (≥ 0.04 BAC), disciplinary action against the employee shall include:
- n. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - o. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from MTA employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgement of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy;
 - p. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
 - q. A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from MTA employment.
- 6) The second instance of a verified positive drug or alcohol (≥ 0.02 BAC) test result including a sample submitted under the pre-employment, random, reasonable suspicion, post-accident, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from employment.
- 7) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the 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 for assessment and treatment consistent with Section Q of this policy.
- 8) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee may be permitted to take a rehabilitation leave pursuant to Section 7.3.7 of MTA's Personnel Policies or Section J of the Collective Bargaining Agreement in order to participate in the prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay

until the employee has successfully completed the required treatment program and has been released to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

- 9) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

Mandatory referral for an assessment by an employer approved substance abuse professional, formulation of a treatment plan, and execution of a return to work agreement;

Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from MTA employment.

Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section P of this policy.

Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.

r. A self-referral or management referral to the employer's approved substance abuse professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.

s. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.

t. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with MTA.

u. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

- 10) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

Recommended language by the FTA for self-referral

R. GRIEVANCE AND APPEAL

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

S. PROPER APPLICATION OF THE POLICY

MTA is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the MTA Drug and Alcohol Program Manager (Personnel 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.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor and Personnel Manager on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.

- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Mendocino Transit Authority or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) 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

Administration Covered FTA Classifications

Transportation Manager
Transportation Superintendent
Operations Supervisor
Dispatcher
Dispatcher – Bilingual
Assistant Dispatcher

FTA Covered Job Classifications

Transit Vehicle Operator
Substitute Driver
Driver Trainer
Driver in Training
Maintenance Manager
Mechanic
Mechanic's Helper
Shelter Maintenance Cleaner
Cleaner

MTA Covered Classifications

Ag Worker Driver

Attachment B System Contacts

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

Personnel Manager, Drug and Alcohol Program Manager, Designated Employer Representative:

Name: Sally Webster
Title: Finance/Personnel Manager
Address: 241 Plant Road, Ukiah, CA 95482
Telephone Number: 707-234-6449

Medical Review Officer

Name: Sara Rinck, Central Drug Systems, Inc
Title: Medical Doctor
Address: 16560 Harbor Blvd, Ste A, Fountain Valley, CA 92708
Telephone Number: 714-418-0136

Substance Abuse Professional

Name: Robert Bruner
Title: National SAP Network
Address: 1481 Ford St, Ste 201, Redlands, CA 92373
Telephone Number: 800-879-6428

HHS Certified Laboratory Primary Specimen


Name: Medtox Laboratories, Inc
Address: 402 W. County Rd D, St. Paul, MN 55112
Telephone Number: 651-636-7466

HHS Certified Laboratory Split Specimen

Name: Quest Laboratories
Address: 7600 Tyrone Ave, Van Nuys, CA 91405
Telephone Number: 800-877-2520

**This Policy was adopted by the Mendocino Transit Authority on
August 30, 2012**

AGENDA ITEM # 13

To: MTA Board of Directors
From: Dan Baxter, Transportation Manager 
Date: September 14, 2012

Subj: Performance of New Services

As you know, the MTA recently enhanced service on three routes: Willits Rider was expanded and renamed Willits Local Rt.1. The Willits service was also changed from a Flex Route to a "Community Service" Fixed Route. Ukiah Local Rt.9 Saturday Service was extended to Mendocino College and the hours expanded. The weekday Local 9 in Ukiah added a route deviation to serve passengers attending the noon meal at Plowshares.

While it is still very early to provide meaningful data staff thought an early report would be helpful.

A. Willits Local Rt.1

We added twelve one-way trips, increasing total trips offered to twenty-two. Added trips doubled weekday service. New routing and the change from a flex to a fixed route increased the number of bus stops served. In addition, ADA passengers needing "door-to-door" service are now being served by the Willits Senior Center, including one hour before and two hours after their existing 8 am to 4 pm service hours.

The first two weeks of service averaged 54/day vs. 16/day for the two weeks before the new service started. We should note that, as a promotion, passengers rode free during these first two weeks. The first week of September, Willits Local averaged just 37.5 riders during the holiday-shortened week.

Staff is heavily promoting this service.

B. Ukiah Local Rt.9 Saturday


This change extended service from Raley's to Mendocino College on every Saturday trip, as well as starting service at 7:45 instead of 10:30. Altogether, Saturday service in Ukiah almost tripled.

Ridership on the first two Saturdays of service averaged 250/day vs. 211/day for the two weeks before the new service started. The six added early trips are carrying about half the passengers carried by the later trips. Staff expects this to improve as the service is promoted and discovered. Promotion at the college is ongoing.

C. Noon Service to Plowshares

This service makes one diversion from the normal Local 9 routing to drop passengers off at Plowshares for lunch and another to pick them up. After three weeks of service we are serving about six passengers each direction. This service was very inexpensive to offer and we expect it to grow as people learn about it and the weather turn cooler and wetter.

More up-to-date ridership will be provided at the Board meeting.

To: Board of Directors
From: Bruce Richard, General Manager 
Date: September 20, 2012
Subj: **2012 State Transportation Improvement Program (STIP):
New Capital Revenue**

In June, when the 2012/13 budget was discussed and approved, I had mentioned the possibility of being awarded \$1,207,000 in STIP funds. This is money that had been programmed by MCOG and the California Transportation Commission (CTC) back in 2008. For a transit project to be funded through the STIP, sufficient Public Transportation Account (PTA) money (one source for the STIP) must be available. In recent years, because of complex changes in funding mechanisms, PTA dollars had all but disappeared, and I had given up hope of receiving this significant amount. Therefore, the 2012/13 Five Year Capital Plan does not use any of that money.

Last week, MCOG's Phil Dow called me to say that PTA funds were available and I needed to make an Allocation Request to the CTC immediately (turned out to be by cob Friday) or we might lose the entire amount because it was now "first come, first served". Needless to say, I did get all the forms and letters submitted. On October 1, the CTC meets and should allocate \$1,207,000 to MTA for vehicle replacement as originally programmed.


This influx of new funding will be spent over three years, beginning in 2013/14. It will be spent on ten vehicles:
2 Heavy-Duty, low floor, clean diesel buses,
6 twenty passenger Large Vans possibly hybrid drive, and
2 eight-passenger Paratransit Vans.

The STIP funds must be spent on bus replacement, we have no choice there. However, a lot of flexibility is available in choosing what budgeted revenue gets replaced by the new revenue. Two major options are described below.

Option A would replace \$955,220 unsecured federal funds, plus \$251,780 local dollars in the vehicle replacement budget.

Option B would replace \$400,000 unsecured federal money that had been budgeted for design of the Administration/Operations Building, plus \$555,220 in unsecured federal vehicle replacement funds, plus \$251,780 local dollars in the vehicle replacement budget. Note that an additional \$3.2 million of federal funds for construction of the Building remains unsecured.

An initial discussion is recommended for now. A final decision can wait for the next capital budget in Spring 2013.

To: Board of Directors
From: Bruce Richard, General Manager 
Date: September 20, 2012
Subj: General Manager Retirement

On April 24, 1976, the Mendocino Transit Authority was created as a temporary, trial, Joint Powers Agency. Just five years and four General Managers later, MTA was recruiting again. I applied, made the interviews and promised the Board that I would stay here at least five years. After months of waiting, I received a call with an offer of a \$26,000 annual salary to become the next GM. (I later found out that the waiting was caused by both their first and second choice candidates being rather slow in declining the opportunity.)

I had wanted this job because Ukiah seemed like a great place to live and to raise kids. MTA looked fairly progressive with different types of transit service and broad geographic coverage. I accepted, and on August 26, 1981, began a new life, and a new job.

After an unbelievable 31+ years that were far more rewarding than I could have ever imagined, I have decided the time has come to end this job. Too many other fun and exciting activities, too numerous to mention, are beckoning me. It's time to let someone else take the helm.

Thanks to many key employees, this agency is in a great position. Drivers, maintenance workers, supervisors, technical and management employees have had far better training and are more professional than ever before. The fleet is in very good shape and funding for replacements is completely in place well into the future. Finances are solid with reasonable but not excessive reserves. Our facilities are in nice shape for the most part. MTA's reputation and standing in the community is highly regarded. The passenger information system is now superbly updated.

I am proud of my accomplishments, but must share that with many colleagues, including most of the 60 or so current and past members of an extremely supportive Board of Directors. The most important thing to me over the past 31+ years is the extraordinary loyalty of MTA employees. People come, some change their job here, but few leave. The same is true of Board members. Both elected officials and workers are proud to be associated with MTA because we do an excellent job delivering an important public service.

continued...

A successor GM has not been selected, of course. In terms of transition, I propose that, if a new GM is not selected prior to my departure, Transportation Manager Dan Baxter be appointed as Acting GM until that time.

My last day on payroll will be December 30, 2012. I will take more vacation than usual at Christmas, but expect to return for the last few days of the year. Within legal limitations, I will also be available to assist MTA where that is effective.

Recommendation

A full three months is available to fill the GM position, but nearly half of that is during the holidays when recruiting may be more difficult. The Board needs to develop a process that will result in the selection of the right candidate as well as his or her commitment to join and to lead this organization. I offer the important and relevant services of Finance & Personnel Manager, Sally Webster, and other managers as needed. The Board can take it from there.