

July 16, 2004

Dear Governor McGreevey:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the rescheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., and NJ Transit Mercer, Inc. Board of Directors held on Thursday, July 15, 2004.

Sincerely,

A handwritten signature in black ink, appearing to read "Gwen A. Watson", with a long, sweeping horizontal stroke at the end.

Gwen A. Watson
Board Secretary

Enclosures

Honorable James E. McGreevey
Governor, State of New Jersey
State House
Trenton, NJ 08625

OPEN SESSION

Minutes of the actions taken at the Open Session of the rescheduled Board of Directors' meetings of the New Jersey Transit Corporation (NJ TRANSIT), NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Thursday, July 15, 2004.

Present:

Jack Lettiere, Chairman
Myron P. Shevell, Vice Chairman
Flora M. Castillo
Robert L. Smartt
Keith D. Barrack, Governor's Representative

Present:

George D. Warrington, Executive Director
Lynn Bowersox, Assistant Executive Director, Corporate Commun. & External Affairs
William Duggan, Vice President & General Manager, Rail Operations
Stan Wrobel, Acting Vice President & General Manager, Bus Operations
Alma Scott-Buczak, Assistant Executive Director, Human Resources
Mark T. Holmes, Deputy Attorney General
Frank Hopper, Assistant Executive Director, Procurement & Support Services
James Redeker, Assistant Executive Director, Policy, Technology & Customer Services
Richard Sarles, Assistant Executive Director, Capital Planning and Programs
H. Charles Wedel, Chief Financial Officer & Treasurer
Robert Guarnieri, Auditor General
Gwen A. Watson, Board Secretary

Chairman Lettiere convened the Open Session at approximately 9:30 am in accordance with the Open Public Meetings Act and asked for a motion to enter into Executive Session to discuss litigation matters. A motion was made by Robert Smartt, seconded by Flora Castillo and unanimously adopted.

Chairman Lettiere reconvened the Open Session at 10:00 am and asked for a motion to adopt the minutes of the June 9, 2004 meeting. A motion was made by Mike Shevell, seconded by Flora Castillo and unanimously adopted.

Executive Director George Warrington highlighted the following from his monthly business report:

Executive Director Warrington said that Madison Square Garden is the site for the Republican National Convention, to be held August 29 – September 2, 2004. Executive Director Warrington said the Garden sits atop New York Penn Station, a four-level terminal, which is the single busiest train station in the country and is home to more than 1,200 trains everyday, and 300,000 NJ TRANSIT, Long Island Railroad, Amtrak, and New York City subway passengers who commute to midtown – including 300 transit trains which provide service to 53,000 passengers, making more than 100,000 trips into and out of New York daily.

Executive Director Warrington said that, under normal circumstances, the density of trains operating through the facility and the volume of passengers using Penn Station strains the capacity limits. The system is constrained, and works only through the close coordination of the operators and the vertical circulation of passengers through multiple egress and access points.

Further, Executive Director Warrington said that, for the last several months, NJ TRANSIT has been working with the organizations planning the Convention logistics and security. Those agencies include the Secret Service and the New York Police Department – who have the lead in planning security for the Madison Square Garden complex and the station. They have established the following extraordinary security measures that will be visible to the public, with which NJ TRANSIT will be complying.

Executive Director Warrington personally thanked New Jersey State Police Superintendent Colonel Rick Fuentes, Major Bill Malast and New York Police Department Deputy Chief Louis Croce for their extraordinary help.

Executive Director Warrington said that during the Convention, access to the station will be severely limited. Only two entrances will be open on the 7th Avenue side, at 32nd and 34th streets. Pedestrian access to station entrances will be heavily channeled – to a single walkway on 32nd street between 6th and 7th avenues. All other surrounding streets will be closed to pedestrians. At the request of the Secret Service, all New York-bound NJ TRANSIT trains will be thoroughly inspected before entering New York. More than 100 NJ TRANSIT police officers will be supported by nearly 100 New Jersey State Troopers, to inspect New York bound train equipment in rail yards before it is dispatched and uniformed police will patrol and inspect every New York bound train. As part of the focus on heightened security, for that week only, NJ TRANSIT will prohibit the use of overhead luggage racks on New York bound trains and ask customers to keep their personal belongings with them at all times and travel light. Also, a limited number of restrooms will be available on New York bound trains. Many restrooms will be locked and all onboard trash receptacles will be sealed. Executive Director Warrington said these steps are being taken for public safety reasons.

In addition, Executive Director Warrington said that given the constraints on access to the station facility and the need for additional security measures, 100 MidTOWN DIRECT trains will be rerouted to Hoboken during the Convention. This change enables NJ TRANSIT Police and the State police to focus resources on 200 daily Corridor and Coast Line train inspections enroute to New York and, importantly, reduces the pressure on Penn Station.

Executive Director Warrington also said to minimize the inconvenience for customers, NJ TRANSIT tickets to New York will be honored by PATH, which has agreed to add extra trains to accommodate passengers. NJ TRANSIT is working on a cross honoring agreement with New York Waterway so that customers can have a ferry option.

In addition, Executive Director Warrington said that the August NJ TRANSIT rail monthly passes will be extended and will remain valid until September 7th. This will help customers avoid having to conduct transactions in Penn Station during Convention week. Also, to give customers maximum flexibility, NJ TRANSIT will cross honor NJ TRANSIT New York-bound

tickets onboard other NJ TRANSIT services into and out of New York. Further, NJ TRANSIT tickets to New York will be honored by Lakeland and DeCamp bus lines for travel to and from New York at no additional charge.

Executive Director Warrington said that while he is confident that all of the law enforcement agencies who are planning this event are working hard to ensure that the station will remain open and that delays will be minimized, the level of density of the New York operation, coupled with the extraordinary security measures outlined, could result in delays to customers using New York Penn Station.

Executive Director Warrington added that an event of this magnitude includes extensive emergency contingency planning. This effort has required extensive planning with all of the regional transportation providers, which was, in fact, already underway over the last 11 months in the wake of the regional blackout experienced last summer.

After the blackout, NJ TRANSIT, together with, the Port Authority of New York and New Jersey, Amtrak, New York Waterways, Academy, Coach USA, and other private bus companies, and New York, New Jersey and New York City departments of transportation, state offices of emergency management, the United States Coast Guard and local and state police departments, formed a Trans-Hudson Transportation Task Force to look comprehensively at improved and joint responses to emergencies, including improved interagency communications, customer service and customer communication initiatives, as well as contingency plans in the event one or more modes of transportation are disrupted. Executive Director Warrington said the Trans-Hudson Task Force is finishing its work to provide contingency options in the event of an emergency and will be providing detailed information to customers in the coming weeks.

Executive Director Warrington said he appreciates the Chairman's substantial efforts in support of NJ TRANSIT's Fiscal Year 2005 budget. Executive Director Warrington said that, thanks to the Governor's leadership, the Legislature passed an \$85 million increase in the State's contribution to transit enabling NJ TRANSIT to replace one-time commercial revenues, cover the annualized expense of new services such as Secaucus Junction and River LINE, and hold fares constant again this years which is good news for transit, and more importantly, it's good news for customers. Executive Director Warrington said he is requesting that the Board adopt a \$1.3 billion operating budget and \$1.2 billion capital program.

Executive Director Warrington said the operating budget includes \$619 million in fares and commercial revenues, including a forecasted increase of \$22 million more in ticket revenue, which reflects the economy-driven uptick in ridership experienced over the last two quarters, as well as ridership growth from new services. He further said the budget also reflects continuing administrative efficiencies, leading to an overall expense growth rate of less than three percent, one-third of which is expense necessary to fund the annualized cost of new services.

Executive Director Warrington said the companion capital program invests \$253 million in rail state-of-good-repair projects including the rehabilitation of the Morris & Essex viaducts, the overhaul of the Arrow III fleet, and advance planning and design of the new Hudson

River rail tunnel and associated capacity expansion. In addition, NJ TRANSIT is progressing improvements at Newark Broad, Ridgewood, Trenton and Metropark stations. It provides \$18 million for bus and light rail state-of-good-repair needs, including financing for 290 new transit buses. Further, it funds \$7.5 million in park and ride expansions to continue the commitment of 20,000 new spaces with projects in Edison and Rahway, as well as other parking projects including 1,600 new spaces in Wayne and up to 2,000 spaces in Hamilton. Executive Director Warrington also said the level of capital funds transferred to the operating budget is slightly lower than last year's, beginning a reversal of the historic reliance on capital to fund operating expenses.

Executive Director Warrington said that an item on the board agenda is the authorization of more than \$46 million to assist some 5,500 customers in 21 counties across the Garden State -- senior citizens, people with disabilities, residents moving off of public assistance and residents living in rural areas. NJ TRANSIT has been the administrator of the state-funded Senior Citizen and Disabled Resident Transportation Assistance Program, with four companion federal programs funded under Federal Transit Administration since the 1980's. The State's funding for these programs comes from Casino Revenue coupled with the federal dollars. These grants help to provide transportation for residents, and help support local shuttle initiatives which are applied for and administered through NJ TRANSIT on behalf of the local providers. Executive Director Warrington asked for the Board's support to continue the program. Without these vital services, many of these customers would not be able to shop for groceries, get to doctor's appointments, or commute to job sites.

Executive Director Warrington said that part of the back to basics plan is improving customer service and technology. Executive Director Warrington reported that the new website went live this week and it includes design changes from customers who submitted more than 1,000 comments on line. Executive Director Warrington said one of the key touch points for riders is to access instant information, schedules, and train status news. He further said more improvements will follow, starting this fall, when customers will be able to calculate their fares more quickly on line, and a comprehensive station and park and ride section will be added to help riders with their travel plans.

Executive Director Warrington recognized two brothers, Robert and Craig Cuje, who work on the Atlantic City Rail Line. Robert Cuje is a Foreman with 20 years of service and Craig Cuje is a Structural Welder with 18 years of service. While driving to work, the two Bridges & Buildings (B&B) employees saw the driver of a car lose control causing it to flip over an embankment. The two brothers stopped to help the driver and, using the first aid training they received from NJ TRANSIT, began to administer CPR and the driver regained consciousness. Executive Director Warrington thanked them for their efforts and presented each of them with a Certificate of Appreciation.

Executive Director Warrington said that 25 years ago this month, the New Jersey State Senate and General Assembly passed legislation allowing for the creation of NJ TRANSIT. Executive Director Warrington said that, in December of this year, NJ TRANSIT will celebrate the official creation and incorporation, the same month that NJ TRANSIT held its first Board meeting back in 1979.

Chairman Lettiere thanked Executive Director Warrington and NJ TRANSIT staff for all of their work in preparing for the Republican National Convention.

William Wright reported for the North Jersey Transit Advisory Committee. Mr. Wright said the Committee is concerned about adequate funding for the Transportation Trust Fund. In addition, Mr. Wright said thanks to Governor McGreevey, NJ TRANSIT will not have a fare increase this year. Mr. Wright said the Advisory Committee will have its next meeting on July 22, 2004 and he will present a report at the next board meeting.

There were no public comments on agenda items.

Executive Director Warrington presented the following Action Items for approval:

0407-40: FISCAL YEAR 2005 OPERATING BUDGET

Approval is requested to adopt the proposed \$1.342 billion Fiscal Year 2005 operating budget as detailed in the item and on the attached exhibits. The budget continues to fund core services and new service initiatives while avoiding a fare increase for the 13th time in 14 years. With internal efficiencies and Governor McGreevey's budget request, which increased State support by \$85 million, the operating budget avoids increased reliance on the capital budget to fund operations so that NJ TRANSIT can keep capital dollars focused on state-of-good-repair investments that expand and improve service quality. Operating expenditure growth has been kept to less than 3 percent and excluding new services, the budget grows less than two percent. The budget projects a 4 percent revenue increase continuing the ridership trend that began last year, and reflects growth from new services including Secaucus Junction, the River LINE, the Hudson Bergen light rail extension and the new Montclair State University and Route 17 park and rides opening soon.

Mike Shevell moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-41: FISCAL YEAR 2005 CAPITAL PROGRAM

Approval is requested to adopt the proposed \$1,188.205 billion Fiscal Year 2005 Capital Program and authorization to seek and secure necessary funding and execute agreements, as required, to accept such funding. The Capital Program reaffirms priorities to address the daily safety and reliability needs of 362,000 customers. The budget targets more parking spaces, station improvements, train car overhauls and 290 new buses. Specifically, the budget includes cost saving technology upgrades, improvements to Newark Broad Street, Trenton and Metropark stations and thousands of new parking spaces at Edison, Hamilton, Rahway and Wayne. The program also continues the commitment to planning and design of the new Trans-Hudson rail tunnel.

Keith Barrack moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-42: NEWARK CITY SUBWAY BROAD STREET EXTENSION CONTRACT 1 –
TUNNEL CONSTRUCTION: CONSTRUCTION CONTRACT AMENDMENT

The Newark City Subway connection between Newark Broad Street and Newark Penn Station is underway and will link those two stations as well as provide service to other downtown destinations including offices, retail and entertainment locales. Authorization is requested to amend the contract (No. 02-024) with E. E. Cruz of Holmdel, NJ for the construction of the Newark City Subway Broad Street Extension Tunnel at a cost not to exceed \$900,000, plus five percent for contingencies for additional costs as a result of unforeseen subsurface conditions involving PSE&G electrical power infrastructure and an additional cost not to exceed \$500,000, plus five percent for contingencies for work required for the relocation of PSE&G electrical utilities.

Mike Shevell moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-43: HUDSON INTERLOCKING: AMENDMENT TO DESIGN A "POCKET
TRACK"

Raritan Valley Line commuters have for decades encountered a less than ideal transfer at Newark Penn Station for New York bound trains. The transfer normally requires arrival on Track 5 and walking down to concourse level and back up to connecting trains on Tracks 1 or 2. The Board has previously approved design for a "pocket track" or temporary storage track on the Northeast Corridor which will allow Raritan trains to avoid railroad congestion, allow commuters to access tracks 1 and 2 directly during the morning peak period and enable a same platform transfer to New York trains. Authorization is requested to amend the contract with SYSTRA Consulting, Inc. of Bloomfield, NJ, to complete the final design for the "pocket track" at a cost not to exceed \$269,690, plus five percent for contingencies, for a total contract authorization of \$2,645,675.

Robert Smartt moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-44: NJ TRANSIT GRANT PROGRAMS SUPPORTING COORDINATED LOCAL
TRANSPORTATION FOR SENIOR CITIZENS, PERSONS WITH
DISABILITIES, RURAL AND ECONOMICALLY DISADVANTAGED
RESIDENTS

In order to provide service to all of New Jersey's residents, NJ TRANSIT oversees a number of grant and contract programs to meet the needs of the transit dependent, senior citizens, persons with disabilities, and rural and economically disadvantaged residents. These grants allow NJ TRANSIT to assist community based organizations as well as municipalities to address transportation for special needs. Approval is requested for a number of

programs which will enable NJ TRANSIT to continue to meet these mobility needs. Included are the senior citizen and disabled resident assistance program, which provides half the cost of county transportation programs; the Section 5311 program which provides assistance to small urban and rural areas not served by public transit; the Section 5310 program which provides vehicles and funding for counties, municipalities and non-profit organizations; the Rural Transportation Assistance Program (RTAP) program which provides training and technical assistance for grant recipients and their operators, and the Job Access and Reverse Commute program which provides support for welfare to work recipients. The total cost for all of these programs will not exceed \$43 million and will provide over 2 million rides for seniors, persons with disabilities and economically disadvantaged over the next year. The exact costs and funding sources for these programs are detailed in the board item. Approval is requested to submit grants and execute all appropriate contracts to implement the programs detailed in the board item and exhibits.

Flora Castillo moved the resolution, Mike Shevell seconded it and it was unanimously adopted.

0407-45: MADISON STATION ACCESSIBILITY IMPROVEMENTS: CONSTRUCTION CONTRACT AWARD

Madison Station, on the Morris & Essex Lines, serves 1200 daily riders and was designated a key station in the Commuter Rail Accessibility plan. Approval is requested to contract with the most responsive and responsible bidder for the construction of accessibility improvements at Madison Station on the Morris & Essex Lines at a cost not to exceed the budgeted amount, plus five percent for contingencies to construct these accessibility improvements, which include mini-high level platforms with canopies, improved lighting, and elevators which conform to the Americans with Disabilities Act (ADA) requirements. NJ TRANSIT will also complete the historic restoration work to the eastbound baggage room and westbound shelter as needed, since this station is listed on the State and National Registers of Historic Places.

Robert Smartt moved the resolution, Keith Barrack seconded it and it was unanimously adopted.

0407-46: COMPUTER HARDWARE/SOFTWARE: SOLE SOURCE MAINTENANCE AND LICENSING AGREEMENT RENEWAL

Approval is requested for sole source maintenance agreements and required upgrades with providers of installed hardware and software whose maintenance or upgrades cannot be competitively procured. Exhibit A lists the firms which are the Original Equipment Manufacturers and the only source of support for these systems. Requested contracts are for one-year with two one-year renewals, at a cost not to exceed \$10,981,616. Also

included is a one-time request to upgrade and purchase hardware/software services from these sole source suppliers at a cost not to exceed \$1,785,000.

Keith Barrack moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-47: TRAIN MANAGEMENT AND CONTROL (TMAC) SOFTWARE UPGRADE

NJ TRANSIT's Train Management and Control (TMAC) system, which monitors and tracks trains and power distribution, requires periodic upgrades to fully maximize its capabilities. The license is held by ARINC Inc. and approval is requested to upgrade this system at a cost not to exceed \$2,359,000 and to provide one year maintenance and product support at a cost not to exceed \$240,000 for a total cost not to exceed \$2,599,000, plus five percent for contingencies.

Flora Castillo moved the resolution, Mike Shevell seconded it and it was unanimously adopted.

0407-48: TRANSPORTATION ONLINE PAYROLL SYSTEM (TOPS) REPLACEMENT PROJECT

For 15 years, NJ TRANSIT Bus Operations has been using the Transportation Online Payroll System (TOPS) to schedule operators, handle bidding, dispatch, rostering, manage work boards and provide timekeeping functions. Payroll information is also sent for processing on a weekly basis. The vendor responsible for the development and maintenance of our system is no longer in business and NJ TRANSIT has been receiving minimal support since 2000 from a third party vendor. Approval is requested to begin a replacement project at 16 bus garages, the Maplewood Office Building and the Light Rail Facility. This will ensure proper scheduling and compensation for 3450 bus operators in accordance with union agreements. The replacement will be with Versyss Transit Solutions, LLC and the total project cost will not exceed \$2,927,798 plus five percent for contingencies. The project should be complete by summer of 2007.

0407-49: HUDSON COUNTY, MIDDLESEX COUNTY, AND PLAINFIELD LOCAL BUS SERVICE

Approval is requested to enter into agreements, outlined in Exhibit A, which will continue local bus service in Hudson, Middlesex and part of Union county and the elimination of competing bus service on an interstate route operated by NJ TRANSIT in Hudson County which will result in efficiencies through route rationalization. Included are the extension of an agreement with Academy Express for seven local routes in Middlesex County for a two year period from October 2004 through September 2006 at a cost not to exceed \$8,580,623, plus five percent for contingencies, an extension of an agreement with Academy Express for seven local routes in the Plainfield area for a two year period from May 2005 through May 2007 at a cost not to

exceed \$2,344,654, plus five percent for contingencies and a two year extension of an existing agreement with Number 22 Hillside, providing that carrier four local routes for a two year period from June 2009 through June 2011 at a cost not to exceed \$13,458,350, plus five percent for contingencies.

Flora Castillo moved the resolution, Keith Barrack seconded it and it was unanimously adopted.

0407-50: HOBOKEN TERMINAL - LEASE OF PARKING LOT

Earlier this year, NJ TRANSIT advertised for proposals to lease the 8000 sq. ft. Hoboken Terminal parking lot which will now have an annual rent of \$405,000 in year one, increasing to \$455,000 in year five, for a total of \$2,145,000. Approval is requested to enter into a lease with the successful proposer, Parking Systems Plus, Inc. which operates over 400 locations nationwide and has been parking cars for over 50 years.

Keith Barrack moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-51: NORTHEAST CORRIDOR/MAIN LINE: CONSTRUCTION SERVICES

During the construction of Secaucus Junction, new tracks which utilize specialized switches and interlockings or turnouts were constructed to allow trains to move from one track to another while maintaining appropriate speeds. Amtrak's and NJ TRANSIT's Communications and Signals (C&S) personnel must locate in the Secaucus terminal in order to provide immediate response when required and ensure daily flow of train traffic between Newark and New York City and Hoboken through the multiple complex interlockings. Approval is requested to contract with the lowest responsive bidder to construct crew quarters for these C&S personnel, and to make improvements to the police area and to construct windscreens and canopy extensions for improved customer comfort including shelter space at the front of the station for bus passengers. The contract will not exceed the budgeted amount plus five percent for contingencies.

Flora Castillo moved the resolution, Keith Barrack seconded it and it was unanimously adopted.

0407-52: HUDSON-BERGEN LIGHT RAIL: MOS-2 PROPERTY ACQUISITION

In May 2001, the Board authorized \$3 million to purchase certain properties for the Hudson-Bergen Light Rail MOS-2 extension, which was an estimate of the needs for the future. That allowance has been expended and the remaining properties require additional funds for purchase due to court findings. NJ TRANSIT filed a condemnation action for the properties which was considered by the Superior Court of New Jersey. The court issued an order stipulating that NJ TRANSIT place additional money in the amount of \$1,025,131 in escrow to satisfy the Court's determination that the property should have a higher value. Additional approval is requested for \$1,560,000

to purchase the remaining properties for MOS-2. Both the property owners and NJ TRANSIT are appealing the commissioner's award. Approval is requested to purchase certain properties required by the Hudson-Bergen Light Rail MOS-2 in the amount of \$2,585,131. The total requested authorization for these properties will be \$5,675,131.

Keith Barrack moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

0407-53: RIVER LINE: OPERATIONS & MAINTENANCE TECHNICAL ASSISTANCE/PROJECT MANAGEMENT

The River LINE was a design/build/operate/maintain effort with Daniel, Mann, Johnson & Mendenhall (DMJM) and Booz Allen & Hamilton providing planning, design and contract management. NJ TRANSIT has moved out of the construction phase and into the operate/maintain phase of the contract. Approval is requested to contract with Booz Allen & Hamilton Inc. to provide professional services and support as the Project Management Assistance Consultant for the River LINE. These services generally include contract management, technical support and litigation support through August 2005. This one-year procurement-by-exception will not exceed \$1,603,457 for these contract management and technical support services.

Mike Shevell moved the resolution, Flora Castillo seconded it and it was unanimously adopted.

The Consent Calendar was moved in its entirety by Mike Shevell, seconded by Flora Castillo and unanimously adopted as follows:

0407-54: NEWARK PENN STATION PLATFORM IMPROVEMENT PROGRAM - PRELIMINARY ENGINEERING, FINAL DESIGN AND CONSTRUCTION ASSISTANCE SERVICES CONTRACT AWARD

Authorization to contract (No. 04-101) with Clough, Harbour & Associates for the development of a Newark Penn Station platform improvement program and 30 percent preliminary design at a cost not to exceed \$800,000 plus five percent for contingencies.

0407-55: REVISION OF NJ TRANSIT DRUG AND ALCOHOL-FREE WORKPLACE POLICY

Authorization to adopt a revised Drug- and Alcohol-Free Workplace Policy, effective August 16, 2004, for dissemination to all NJ TRANSIT employees in such a manner that proof of employee receipt can be recorded and retained.

0407-56: SUBSTANCE ABUSE MANAGEMENT OVERSIGHT PROGRAM:
CONSULTANT SUPPORT

Authorization to contract for three years with Penn Services Group, Inc. for the performance of professional services related to NJ TRANSIT's Substance Abuse Management Oversight Program at a total cost not to exceed \$256,655, plus five percent for contingencies. Staff also seeks authorization to exercise an option to extend this contract for an additional two-year period, in accordance with the Request for Proposals (RFPs) and the contractor's proposal, at a cost not to exceed \$126,900, plus five percent for contingencies.

The following public comments were heard on non-agenda items:

William Wright, on behalf of the New Jersey Association of Railroad Passengers, commented that Assemblyman Eric Munoz's Bill No. A-2828 to ban the use of creosote railroad ties will worsen the environment, cause injuries and possible deaths and destroy the State's quality of life. Mr. Wright stated that Bill No. A-2828 was written to satisfy a vested interest NIMBY who trespassed on state owned Rahway Valley Railroad and wants to keep the needed rehabilitation of the freight line with a large passenger potential from being activated. Mr. Wright said the bill has not been thought out appropriately. Mr. Wright requests NJ TRANSIT's support to join others in exposing the bill as an environmental disaster. Mr. Wright also pointed out that Assemblyman Munoz has done nothing to support NJ TRANSIT's need for Equal Modal Support.

Dennis Connell commented that Title 27 gives NJ TRANSIT the authority to enact regulations under the New Jersey Administrative Code. Mr. Connell asked the Board if they would circumvent Article 1 of the United States Constitution to authorize a regulation. Chairman Lettiere said it is not a policy now or ever to circumvent or ignore the Articles of the Constitution.

David Peter Alan, Lackawanna Coalition, mentioned a few items that are a concern to the Lackawanna Coalition. Mr. Alan said, over the years, NJ TRANSIT retained consultants – Systra, Edwards & Kelcey and Parsons, Brinckerhoff. Mr. Alan said the Lackawanna Coalition has among its membership five attorneys, three professional engineers and six holders of business degrees (including MBAs). Mr. Alan requested that NJ TRANSIT include the Lackawanna Coalition in the decision making process since they can be a great help to NJ TRANSIT and their advice is free of charge.

In addition, Mr. Alan expressed concern about certain scheduling matters such as the lack of an inbound train from Dover after 11:00 pm on weekend nights and large gaps in peak hour service from certain stations. Further, he mentioned that the new bi-level cars will have fixed seating. In the past, the Coalition fought for and achieved flipover seating on the equipment. He said decisions were made without their input.

Further, he said meetings were held regarding the proposed cut-off line service to Scranton, which is a project, the Coalition supports. Every meeting was held at a location beyond the

service area of the Morris & Essex Lines, so none was accessible by transit. He said he appreciates that NJ TRANSIT management has agreed to make a presentation about this proposal at a Coalition meeting later this summer. He said he requested a fourth meeting no further west than Dover but the suggestion was rejected.

Further, Mr. Alan congratulated NJ TRANSIT on its 25th Anniversary and saluted the founders, particularly former Senator Francis X. Herbert and former Commissioner Louis J. Gambaccini for their vision and their courage in working to establish NJ TRANSIT as a solution to the state of transportation at that time. Mr. Alan also commended the Board Members and NJ TRANSIT staff. Mr. Alan presented a Resolution to Chairman Lettiere and Executive Director Warrington, which congratulates NJ TRANSIT on its 25th Anniversary.

Mr. Alan also distributed a copy of Railgram.

Al Cafiero commented on the restoration of the Tenaflly Station and said it is an intermodal station again. He invited Board Members to the re-dedication of the station.

Byron Allen, Jr. said it is critical for NJ TRANSIT to continue construction of the Hudson-Bergen Light Rail line to reduce traffic in Jersey City.

Jim Clark, a resident of Plainfield, commented about the photography restrictions on NJ TRANSIT trains and property. He said it is his understanding that no photographs are to be taken on NJ TRANSIT property without a permit. He also said there is a charge for the permit. He said rail fans provide a positive service by photographing trains and he is concerned that it is a violation of the Constitution. He requested a response from NJ TRANSIT regarding this issue. Chief Financial Officer Charles Wedel replied that there is no charge for a permit. Mr. Wedel said he doesn't see it as a restriction but rather a registration to take non-commercial photographs on NJ TRANSIT property.

Chairman Lettiere said there is no August board meeting and wished everyone a safe and happy summer.

Since there were no further public comments or new business, Mike Shevell moved for adjournment. The motion was seconded by Flora Castillo and unanimously adopted.

The meeting was adjourned at approximately 10:55 am.

**NEW JERSEY TRANSIT CORPORATION
NJ TRANSIT BUS OPERATIONS INC.
NJ TRANSIT RAIL OPERATIONS INC.
NJ TRANSIT MERCER INC.
RESCHEDULED BOARD OF DIRECTORS MEETING**

JULY 15, 2004

MINUTES

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ACTION ITEMS

0407-40:	FISCAL YEAR 2005 OPERATING BUDGET	35394
	Adoption of the proposed Fiscal Year 2005 operating budget as detailed in the item and on the attached exhibits.	
0407-41:	FISCAL YEAR 2005 CAPITAL PROGRAM	35403
	Adoption of the proposed Fiscal Year 2005 (FY05) Capital Program totaling \$1,188.205 billion and authorization to seek and secure necessary funding and execute agreements, as required, to accept such funding.	
0407-42:	NEWARK CITY SUBWAY BROAD STREET EXTENSION CONTRACT 1 – TUNNEL CONSTRUCTION: CONSTRUCTION CONTRACT AMENDMENT	35418
	Authorization to amend the contract (No. 02-024) with E. E. Cruz of Holmdel, NJ for the construction of the Newark City Subway Broad Street Extension Tunnel at a cost not to exceed \$900,000, plus five percent for contingencies for additional costs as a result of unforeseen subsurface conditions involving PSE&G electrical power infrastructure and an additional cost not to exceed \$500,000, plus five percent for contingencies for work required for the relocation of PSE&G electrical utilities.	
0407-43:	HUDSON INTERLOCKING: AMENDMENT TO DESIGN A "POCKET TRACK"	35421
	Authorization to amend the contract (No. 86007.9) with SYSTRA Consulting, Inc. of Bloomfield, NJ, to complete the final design for the	

“pocket track” at a cost not to exceed \$269,690, plus five percent for contingencies, for a total contract authorization of \$2,645,675.

- 0407-44: NJ TRANSIT GRANT PROGRAMS SUPPORTING COORDINATED LOCAL TRANSPORTATION FOR SENIOR CITIZENS, PERSONS WITH DISABILITIES, RURAL AND ECONOMICALLY DISADVANTAGED RESIDENTS 35424

Authorization to submit grants and execute all appropriate contracts to implement the following programs:

Authorize agreements as necessary to implement the State Fiscal Year (SFY) 2005 Senior Citizen and Disabled Resident Transportation Assistance Program as set forth in Exhibit A for a total program amount of \$25,287,000.

Adopt the SFY2005 Section 5311 Program and as set forth in Exhibit B; authorize all grant submittals and the execution of all contracts and agreements with sub-recipients as necessary to implement the SFY2005 Section 5311 Program up to \$4,710,758 of which \$1,119,221 is the NJ TRANSIT share.

Authorize execution of all contracts and agreements necessary to implement the Federal Fiscal Year (FFY) 2004 Rural Transit Assistance Program up to \$78,737 at no cost to NJ TRANSIT.

Authorize all grant submittals and the execution of all contracts and agreements necessary to implement the FFY04 Section 5310 Program at a cost not to exceed \$3,223,995 of which \$644,799 is the NJ TRANSIT share. A list of selected recipients is set forth in Exhibit C.

Authorize all grant submittals and the execution of all contracts and agreements necessary to implement the FTA FY05 Jobs Access and Reverse Commute Program at a cost not to exceed \$11,000,000 of which \$ 5,500,000 or 50% are federal funds. No NJ TRANSIT match is required in this program.

Authorize all grant submittals and the execution of all contracts and agreements necessary to implement the various federally funded special projects under earmarks, CMAQ and Transit Village programs under the FTA03/04 budget at a cost not to exceed \$5,114,708. No NJ TRANSIT hard match is required in this program.

Authorize the procurement of all vehicles and related equipment necessary to implement these programs from the various funding described herein at a cost not to exceed \$8,477,735.

0407-45: MADISON STATION ACCESSIBILITY IMPROVEMENTS: 35435
 CONSTRUCTION CONTRACT AWARD

Authorization to contract (No. 04-108) with the most responsive and responsible bidder for the construction of accessibility improvements at Madison Station on the Morris & Essex Lines at a cost not to exceed the budgeted amount, plus five percent for contingencies.

0407-46: COMPUTER HARDWARE/SOFTWARE: SOLE SOURCE 35437
 MAINTENANCE AND LICENSING AGREEMENT RENEWAL

Authorization to initiate or renew sole source maintenance and licensing agreements with companies specified in the resolution for the hardware and software required to operate NJ TRANSIT's Information Systems at a total cost not to exceed \$3,453,529 for one-year contracts with two one-year renewals at a cost not to exceed \$7,528,087 for a total of \$10,981,616. Authorization is also sought to upgrade and purchase hardware/software services from these sole source suppliers at a one-time cost of \$1,785,000.

0407-47: TRAIN MANAGEMENT AND CONTROL (TMAC) SOFTWARE 35444
 UPGRADE

Authorization to enter into a procurement-by-exception contract for licensing and professional services to upgrade NJ TRANSIT's TMAC product with ARINC, Inc. of Annapolis, MD at a total cost not to exceed \$2,359,000 and to provide one year of maintenance and product support at a cost not to exceed \$240,000 for a total cost not to exceed \$2,599,000, plus five percent for contingencies, subject to the availability of funds.

0407-48: TRANSPORTATION ONLINE PAYROLL SYSTEM (TOPS) 35447
 REPLACEMENT PROJECT

Authorization to contract with the Versyss Transit Solutions, LLC, Providence, RI for the TOPS replacement project for the total project amount not to exceed \$2,927,798, plus five percent for contingencies, subject to availability of funds and future capital and operating budgets.

0407-49: HUDSON COUNTY, MIDDLESEX COUNTY, AND PLAINFIELD 35450
 LOCAL BUS SERVICE

Authorization to enter into agreements with Number 22 Hillside, LLC and Academy Express, LLC of Hoboken, NJ for the discontinuation of service by Number 22 Hillside, LLC on one interstate route operated by the carrier under its own operating authority and for the extension of the existing agreements with Number 22 Hillside, LLC and Academy Express, LLC for the operation of local bus service in the Hudson

County, Middlesex County, and Plainfield areas (Exhibit A), as follows:

- ❖ Extension of the agreement with Number 22 Hillside, LLC providing for the carrier to operate four local routes in the Hudson County area (Exhibit A) for a two-year period from June 27, 2009 through June 25, 2011 at a cost not to exceed \$13,458,350, plus five percent for contingencies; and
- ❖ Extension of the agreement with Academy Express, LLC providing for the carrier to operate seven local routes in the Middlesex County area (Exhibit A) for a two-year period from October 3, 2004 through September 30, 2006 at a cost not to exceed \$8,580,623, plus five percent for contingencies; and
- ❖ Extension of the agreement with Academy Express, LLC providing for the carrier to operate seven local routes in the Plainfield area (Exhibit A) for a two-year period from May 15, 2005 through May 19, 2007 at a cost not to exceed \$2,344,654, plus five percent for contingencies.

0407-50: HOBOKEN TERMINAL - LEASE OF PARKING LOT 35456

Authorization to enter into a lease with Parking Systems Plus, Inc. D/B/A Parking Systems of Valley Stream, NY for the operation of a parking lot at Hoboken Terminal for two years with one-year renewal extensions at the following rents - Year 1 - \$405,000, Year 2 - \$415,000, Year 3 - \$430,000, Year 4 - \$440,000, Year 5 - \$455,000.

0407-51: NORTHEAST CORRIDOR/MAIN LINE: CONSTRUCTION SERVICES 35459

Authorization to contract (No. 04-118) with the lowest, responsive bidder for the construction of Crew Quarters, expansion of the Station's Security Office Area and to construct additional customer improvements at the Frank R. Lautenberg Rail Station at Secaucus Junction at a cost not to exceed the budgeted amount plus five percent for contingencies.

0407-52: HUDSON-BERGEN LIGHT RAIL: MOS-2 PROPERTY ACQUISITION 35462

Authorization to increase the Board authorized budget of \$3,000,000 plus three percent for closing costs (\$3,090,000) in the amount of \$2,585,131 for the acquisition of certain properties required by the Hudson-Bergen Light Rail MOS-2. The total authorization for these properties will be \$5,675,131.

- 0407-53: RIVER LINE: OPERATIONS & MAINTENANCE TECHNICAL ASSISTANCE/PROJECT MANAGEMENT 35465

Authorization to enter into a one-year procurement-by-exception contract with Booz Allen & Hamilton, Inc. of McLean, VA in the amount \$1,603,457 to provide professional services and support as the Project Management Assistance Consultant for the River LINE. These services generally include contract management, technical support and litigation support through August 2005.

CONSENT CALENDAR

- 0407-54: NEWARK PENN STATION PLATFORM IMPROVEMENT PROGRAM - PRELIMINARY ENGINEERING, FINAL DESIGN AND CONSTRUCTION ASSISTANCE SERVICES CONTRACT AWARD 35469

Authorization to contract (No. 04-101) with Clough, Harbour & Associates of Parsippany, NJ for the development of a Newark Penn Station platform improvement program and 30 percent preliminary design at a cost not to exceed \$800,000 plus five percent for contingencies.

- 0407-55: REVISION OF NJ TRANSIT DRUG AND ALCOHOL-FREE WORKPLACE POLICY 35472

Authorization to adopt a revised Drug- and Alcohol-Free Workplace Policy, effective August 16, 2004, for dissemination to all NJ TRANSIT employees in such a manner that proof of employee receipt can be recorded and retained.

- 0407-56: SUBSTANCE ABUSE MANAGEMENT OVERSIGHT PROGRAM: CONSULTANT SUPPORT 35585

Authorization to contract with Penn Services Group, Inc. of Exton, PA for the performance of professional services related to NJ TRANSIT's Substance Abuse Management Oversight Program at a total cost not to exceed \$256,655, plus five percent for contingencies. Staff also seeks authorization to exercise an option to extend this contract for an additional two-year period, in accordance with the Request for Proposals (RFPs) and the contractor's proposal, at a cost not to exceed \$126,900, plus five percent for contingencies.

- PUBLIC COMMENTS ON NON-AGENDA ITEMS 35363

(NJT BOARD – 7/15/04)

EXECUTIVE SESSION AUTHORIZATION

BE IT HEREBY RESOLVED pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Board of Directors of the New Jersey Transit Corporation hold an executive session to discuss litigation matters; and

BE IT FURTHER RESOLVED that it is expected that discussions undertaken at this executive session could be made public at the conclusion of the litigation matters as appropriate.

(NJT BOARD – 7/15/04)

APPROVAL OF MINUTES

WHEREAS, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations Inc., NJ TRANSIT Bus Operations Inc. and NJ TRANSIT Mercer Inc. Board of Directors be approved by the Board; and

WHEREAS, pursuant to Section 4(f) of the New Jersey Public Transportation Act of 1979, the minutes of actions taken at the June 9, 2004 Board meeting of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations Inc., NJ TRANSIT Rail Operations Inc. and NJ TRANSIT Mercer Inc. were forwarded to the Governor on June 11, 2004;

NOW, THEREFORE, BE IT RESOLVED that the minutes of actions taken at the June 9, 2004 New Jersey Transit Corporation, NJ TRANSIT Rail Operations Inc., NJ TRANSIT Bus Operations Inc. and NJ TRANSIT Mercer Inc. Board of Directors' meetings are hereby approved.

James E. McGreevey
Governor

Jack Lettiere
Board Chairman

George D. Warrington
Executive Director

NJ TRANSIT
One Penn Plaza East
Newark, New Jersey 07105-2246
973-491-7000

35372

TO: BOARD OF DIRECTORS

FROM: GEORGE D. WARRINGTON 

DATE: JULY 15, 2004

SUBJECT: **EXECUTIVE DIRECTOR'S REPORT – JULY**

In July 1979, the New Jersey State Senate and General Assembly passed legislation allowing for the creation of NJ TRANSIT. At the end of this year, we will celebrate the 25th Anniversary of our incorporation and conduct a series of events throughout the year that will culminate in December to officially commemorate the anniversary of the Corporation's first Board of Directors meeting.

The first event will be held on Friday, July 16th, at the Hoboken Terminal where NJ TRANSIT's "Music In Motion" jazz series will kick off the 25th Anniversary. WBGO jazz radio – also celebrating its 25th Anniversary – has partnered with the Corporation to present this music series that will run through December 8th at various bus and rail terminals. Customers will be treated to music, have a chance to enter sweepstake drawings and participate in a host of activities throughout the year.

This week, NJ TRANSIT continued its efforts to enhance our customers' experience with the re-launch of our website – www.njtransit.com. The website was designed with input from more than 1,000 customers, who offered valuable information on what they wanted, resulting in more features that make the site more user friendly.

The homepage offers a more streamlined look that includes drop down menus and "quick-links" to the most popular pages on the site. Prominent on the homepage are Travel Alerts, Advisories and MY TRANSIT services. There is also an NJ TRANSIT News section that connects customers to our services, news and promotional discounts. Additional enhancements are planned for the fall that will include a comprehensive Station and Park & Ride section that is expected to help customers better plan their travel.

Last month elementary school students from the Perth Amboy School 10 raised more than \$1,000 to purchase a canine bulletproof vest for NJ TRANSIT's Police Department. The students presented the vest to the K-9 unit team of Officer Ziggy Lachowski and his dog, Chico, during a special assembly inside the school's auditorium. The students raised the money in two weeks without having any fundraising events. Many brought in spare change or portions of their allowances to go toward the vest's purchase.

Finally, next month the Republican National Convention will be held inside Madison Square Garden that sits atop New York Penn Station between August 29th and September 2nd. For the last several months, we have been working with various agencies planning convention logistics and security. Steps will be taken to enhance public safety convention week.

EXECUTIVE DIRECTOR'S MONTHLY REPORT

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HIGHLIGHTS

River LINE Begins 15-Minute Pick Ups

On Monday, June 21st, NJ TRANSIT enhanced its River LINE service schedule by introducing 15-minute rush hour departures. The introduction of more frequent service during the morning and evening peak periods has increased light rail service from 76 to 105 roundtrips from Monday to Friday. That means light rail trips to Trenton have increased to 43 roundtrips from 31, while roundtrip service to Camden jumped to 44 roundtrips from 31. Weekend schedules remain unchanged.

Under the new schedule, 15-minute departures to Trenton from Camden are available between 5:45 a.m. and 8:30 a.m. Departures to Camden from Trenton are between 6 a.m. and 8:30 a.m. In the evening, 15-minute service to Trenton operates between 4 p.m. and 7 p.m., while service to Camden operates between 4 p.m. and 8 p.m. The peak period schedule was designed to enable more connections with PATCO service, as well as NJ TRANSIT commuter rail, SEPTA and Amtrak service in Trenton.

To promote 15-minute pick-ups, NJ TRANSIT launched the next phase of its marketing campaign, including advertisements that will run between June and December. The campaign's centerpiece is radio spots that feature frequently heard "pick up lines" such as: "Do you have a map? Cause I keep on getting lost in your eyes," and "Am I dead? Cause you must be an angel." In addition, NJ TRANSIT has created an interactive web-based contest for customers to enter when the log on to www.15minutepickup.com.

Between June 21st and July 11th, customers were able to go online to participate in the contest. Contestants submitted their best pick up lines, and the best or worst submissions were chosen weekly. The contest will culminate with the selection of grand prizewinners to be crowned King and Queen of the "Pick Up Lines" during a Camden Riversharks game on Sunday, July 25th. The winners will receive private box seats for their family and friends at the game, free monthly passes on the River LINE and tickets to entertainment venues that are served by the River LINE.

River LINE ridership now average 4,200 weekday passenger trips. Saturday ridership has averaged approximately 4,800 passenger trips, while Sunday ridership averages 3,500 passenger trips.

NJ TRANSIT Sponsors First River LINE Job Fair

On Tuesday, June 15, NJ TRANSIT hosted its first ever River LINE Job Fair aboard the Battleship New Jersey along the Camden Waterfront. More than 500 people attended the job fair that included 24 local employers. Some of the employers present included SEPTA, UPS, Genesis Eldercare, New Jersey State Police and Cooper Hospital. Before the job fair opened to the general public, there was a special preview for military personnel.

The River LINE Job Fair was held with the objective of connecting potential employees to prospective employers. The opening of the River LINE has presented new opportunities for more local employers to be accessible by mass transit that was not previously available.

NJ TRANSIT's Best Advance To International Competition

NJ TRANSIT'S annual Bus Rodeo was held on June 12 at the Howell Bus Garage in Monmouth County. Three bus operators and a team of mechanics will head to Atlanta to compete in the annual American Public Transportation Association's (APTA) Bus Operators and Mechanics Rodeo on October 7-10.

Dubbed the "Bus Olympics" among participants, the annual competition attracts top bus operators and mechanic teams from various countries including Canada, Australia and Puerto Rico. More than 120 bus operators and up to 40 mechanic teams throughout North America will participate.

NJ TRANSIT's mechanic team from the Meadowlands Garage in North Bergen will be heading to this year's international competition. Team members include Larry Moore of Jersey City, Ron O'Neil, Jr. of Bloomfield and Mike Clifford of Jackson. This is the team's eighth trip to the international competition in the last 11 years.

Bus operator winners representing the northern, central and southern divisions include – Corey Green of Paterson, representing Wayne Garage; Daniel Bruey of Hammonton, representing Egg Harbor Township Garage; and Edwin Negron of Kearny, representing Big Tree Garage in Nutley.

More than 600 people attended NJ TRANSIT's annual Bus Rodeo in Howell to cheer the 30 bus operators and nine mechanical teams, as they showcased their skills in an attempt to advance to the international competition.

During the bus operators' contest, drivers were challenged to successfully complete an 11-part obstacle course within seven minutes to tests their talents on lane changing, passenger stops, turns and backing up. The course is designed to measure each competitor's safety, execution and everyday driving skills.

In the mechanical contest, teams were required to identify and repair various defective bus systems. The test consists of a brakes test, engine test and a bus defect competition. Mechanics were also required to complete a written mechanical quiz.

Ed Dombrowski of Fanwood, representing Ironbound Garage in Newark, won the written mechanical quiz. The Meadowlands Garage team of Clifford, O'Neil and Moore won the Powertrain competition. The Newton Avenue Garage team of Victor Guerrero of Pennsauken, Daniel Karnuk of Erial and Orlando Perez of Deptford won the airboard and defects competition.

NJ TRANSIT BOARD ACTIONS

Board Considers Operating and Capital Budgets

The Board today will consider a \$1.34 billion Operating Budget and a \$1.19 billion Capital Program for Fiscal Year 2005 (FY05), which runs from July 1, 2004 to June 30, 2005.

The FY05 Operating Budget continues to fund core services and new-service initiatives while avoiding a fare increase and increased reliance on the capital budget to fund operations. To keep fares level, the Corporation has identified about \$30 million in savings in addition to the \$27 million in savings from the FY04 Operating Budget. NJ TRANSIT has contained expenditure growth to less than 3 percent (or less than 2 percent excluding new-service initiatives).

The FY05 Operating Budget:

- Avoids a fare increase for the 13th time in 14 years. NJ TRANSIT fares have increased 10 percent during that time period while the Consumer Price Index has increased about 40 percent.
- Virtually freezes the level of capital program funds that are transferred to cover operating costs at \$356 million, an important step toward reversing the Corporation's reliance on the State Transportation Trust Fund and Federal capital grants to support operating costs.
- Provides more funding for new services such as the annualization of the Frank R. Lautenberg Rail Station at Secaucus Junction and the River Line, which were opened in FY04, as well as the Hudson-Bergen Light Rail extension north of Hoboken, set to open this summer.

The Operating Budget's expenditures are offset by \$618.7 million in fares and other system-generated revenue, \$278.7 million in State operating assistance – an \$84.9 million increase from FY04 – and \$444.8 million from other State and Federal reimbursements.

The FY05 Capital Program reaffirms priorities aimed at providing the required resources to address the daily safety and reliability needs of NJ TRANSIT's 362,000 customers. About two-thirds of the program – \$772 million – is dedicated to fixed expenses that include capital maintenance and debt services. State-of-good-repair investments include more parking spaces, station improvements, overhauled train cars and new buses.

The FY05 Capital Program:

- Invests \$253 million in rail state-of-good repair needs including \$31 million to fund the rehabilitation of the Morris & Essex Viaduct, \$13 million to continue the overhaul of the Arrow III fleet to maintain reliability and \$42 million to fund state-of-good repair needs on the Northeast Corridor.
- Provides \$18 million for bus and light rail state-of-good repair needs and includes financing for 290 new transit buses.

- Targets \$62 million for system-wide improvements, including \$9 million for technology upgrades that would reduce operating costs and \$15 million to public announcement systems.
- Spends \$76 million in rail station improvements at various sites, including Newark Broad Street, Ridgewood, Trenton and Metropark stations.
- Invests \$7.5 million to expand park/rides to meet Governor James E. McGreevey's mandate for 20,000 additional spaces. This year's parking expansion will include Edison, Hamilton and Rahway Rail stations as well as Wayne.

The FY05 Capital Program also continues to advance planning and design of the new Trans-Hudson rail tunnel.

Board Considers Upgrade to Train Management Equipment

The Board today will consider a \$2.5 million agreement with ARINC, Inc of Annapolis, MD for licensing and professional services to upgrade NJ TRANSIT's Train Management and Control (TMAC) product. The agreement will also include for ARINC to provide one year of maintenance and product support.

NJ TRANSIT hold licenses with ARINC to run the TMAC software that is utilized at the Rail Operations Center to monitor and trace train movements, as well as, control the power distribution and remote operations of the Corporation's bridges. The TMAC system was designed to utilize the status of train movements to provide real time train information to customers. It also includes features that assist in monitoring and tracking trains.

Board to Consider Madison Station ADA Improvements

The Board of Directors will consider authorization to enter into a contract with the most responsive and responsible bidder for the construction of accessibility improvements at Madison Station at a cost not to exceed \$5.5 million. The construction of this project will put the station in compliance with Americans with Disabilities Act (ADA) regulations and will allow passengers with disabilities access to this key station, as designated under NJ TRANSIT's Commuter Rail Accessibility Plan.

The project includes construction of two mini-high level platforms with canopies, lighting fixtures and elevators. There will be interior improvements to the baggage room that will house the station's inbound elevator located in the eastbound station building, interior improvements and exterior rehabilitation work to the westbound shelter house – required to install and protect the elevators being placed in these areas – along with the rehabilitation of the eastbound station building's roof. The project also includes the conversion of the heating system from oil to gas and the installation of a basement area fire sprinkler system.

NJ TRANSIT recently completed the historic restoration of the Madison Station main station that contains eastbound waiting room, which is listed on the State and National Registers of Historic Places. The station, located on the Morris & Essex Lines, serves

1,200 weekday passengers and is considered a major transportation hub for southeastern Morris County. The project is expected to be complete in 2005.

Board Considers Transportation Grant Programs

The Board of Directors today will be asked to authorize \$43 million in grants to help fund a variety of Federal and State programs dedicated to assist community based transportation services that benefit senior citizens, the disabled and residents living in rural and small urban areas.

NJ TRANSIT administers the State funded Senior Citizen and Disabled Resident Transportation Assistance Program and four Federal programs funded under the Federal Transportation Administration. They include:

- Senior Citizen and Disabled Residents Transportation Assistance Program
- Section 5311 – Federal Transit Act
- Section 5310 Program
- Rural Transit Assistance Program
- Job Access and Reverse Commute Program
- Local Shuttle Bus Grant Program

Authorization of the grant programs allows NJ TRANSIT to administer a variety of Federal and State grant programs dedicated to the development of community based transportation services that benefit senior citizens, persons living with disabilities, rural and small urban residents and the economically disadvantaged. These network of services offer local communities with transportation alternatives that serve residents who may not have easy access to public transportation.

In addition, the Corporation also supports local shuttle bus initiatives funded through a variety of federally funded sources. This year, local shuttle bus initiatives will total more than \$5 million in various federal funds

CUSTOMER AND COMMUNITY INITIATIVES

NJ TRANSIT Re-launches Website

NJ TRANSIT has re-launched its website at www.njtransit.com that includes a new homepage design, navigation and a variety of new features and functions.

The enhanced website allows for better use by NJ TRANSIT commuters and first-time customers. Many of the improvements and features came as a direct result of customer research conducted in 2003 among more than 1,000 regular and casual customers.

The homepage offers a more streamlined look that includes:

- Drop-down menus and "quick-links" to the most popular pages on the site.
- The new EZ Trips function, which lets customers plan their trips directly from NJ TRANSIT's homepage. Customers can also access station information directly from the homepage and a Rider's Guide that makes the site more user friendly to casual and first-time riders.
- An Airport Connections link has been added to the homepage, as well as a Fast Find feature to provide quicker searches for bus routes and towns.
- NJ TRANSIT's popular Travel Alerts, Advisories and My Transit features are prominent on the homepage and the Corporation has added a NJ TRANSIT News section to provide additional information about services, news, and promotional discounts.

Future enhancements are planned for the fall including a Fast Fare function that will enable customers to determine fares more easily and a comprehensive Station and Park & Ride Section that help customers better plan their travel.

Customer Service Center Opens inside Port Authority Bus Terminal

On Monday June 21, NJ TRANSIT celebrated the opening of its new Customer Service Center inside the Port Authority Bus Terminal in New York, located in the south building across from NJ TRANSIT's ticket offices. The 450-square-foot center cost \$409,034 to construct, and is NJ TRANSIT's first centrally located customer service space inside the terminal that allows customers to gain easy access to all transit related services.

To celebrate the center's opening, NJ TRANSIT treated commuters to coffee and pastries, while distributing bus information packets. In addition, commuters were able to participate in a sweepstakes to win Great Adventure and Phantom of the Opera tickets.

EMPLOYEE RECOGNITION

NJ TRANSIT Employees Bid Farewell After Outstanding Careers

Four NJ TRANSIT employees retired in the past month after careers ranging from 11 years to 24 years of service with the Corporation and its predecessor companies.

The senior members of the retiree group are Alfred J. Hannon of Montclair and Anna D. Marcelli of Springfield, each with 24 years. Hannon was a Bus Operator from the Big Tree Garage and Marcelli was an investigator.

Other retirees were:

- Oradell Garage Bus Operator Janie R. Nichols of Orange (19 years)
- Egg Harbor Garage Bus Operator Tonya L. Leslie of Vineland (11 years)

NJ TRANSIT Employees Rescue Injured Motorist

Congratulations to NJ TRANSIT employees Robert and Craig Cuje whose combined heroics may have helped save the life of an injured motorist. Robert and Craig are brothers who both reside in Long Branch and work for the Buildings and Bridges Department out of Red Bank. Robert works as a foreman and has worked for NJ TRANSIT for 20 years, while Craig has worked for NJ TRANSIT as a structural welder for 18 years.

On Sunday, May 9th the two brothers were going to Atlantic City Beach Bridge to check the roadway, when they saw a vehicle loose control and flip over an embankment. Robert and Craig pulled over to see what had happened. Craig climbed into the car through the shattered back window to see if anyone was hurt and noticed no one inside. The brothers searched the area and Robert saw a man lying unconscious underneath nearby trees.

With the first aid training they received from NJ TRANSIT, they rolled the man onto his back and checked for his vital signs. Robert gathered the supplies necessary to give the victim mouth-to-mouth resuscitation, however the victim regained consciousness before Robert could begin the procedure.

Another motorist approached Robert and Craig and told them the overturned vehicle was still running. In an effort to keep the vehicle from catching on fire Robert went inside the car and turned off the ignition. Meanwhile, Craig worked on keeping the man calm and in a comfortable position. The man appeared to have suffered head wounds and a possible broken shoulder. He also was bleeding from his eyes, ears, mouth, and head.

Finally, two nurses pulled over and took over caring for the man. Moments later Lacey Police and EMS arrived on the scene. After Robert and Craig felt the situation was under control they went back to work heading towards the Atlantic City Beach Bridge.

Police Officer Helps Heart Attack Victim in Atlantic City

NJ TRANSIT Police Officer Edward Joos was in the right place at the right time when he helped save the life of 87-year-old man. Edward, 29, of Toms River, has been with the NJ TRANSIT Police Department for three years and is stationed at Newark Penn Station. Currently, Joos is in training to become a member of the police department's K-9 unit.

On Thursday, June 17, Joos and fellow officers were training in the Atlantic City area. None of the officers knew their training would truly be needed that day when a woman from a nearby cruise ship came to inform them that her husband was having a heart attack. Joos, along with the other officers, rushed to the scene. When they arrived they found the man laying on his back unconscious and not breathing. Joos knew something had to be done to save the man's life and without hesitation, he used a defibulator he received from EMS to revive the man.

DBE/MBE PROGRAM

Small Business Development Programs DBE/WBE Participation**Federally Funded Contracts**

In the federal funds category, \$117,227,291 has been awarded thru June 2004*; of that total \$14,274,146 or 12.2 percent awarded to Disadvantaged Business Enterprises (DBE) firms went towards meeting our Race Conscious Goal (21%). DBEs won \$1,985,381 or 1.7 percent of NJ TRANSIT's Race Neutral Contracts.

State Funded Contracts

\$170,076,059 was awarded in state-funded contract dollars during this same period.** Of that total Small Business Enterprises (SBE) received \$43,549,669 or 25.6 percent. Category 1 SBEs received \$19,318,878 or 11.4 percent. Category 2 SBEs received \$6,629,021 or 3.9 percent. Category 3 SBEs received \$5,930,000 or 3.5 percent. Category 4 SBEs received \$4,134,585 or 2.4 percent. Category 5 SBEs received \$7,537,185 or 4.4 percent.***

Federal & State Contracts Total

Of \$287,303,350 in federal and state contract dollars awarded by NJ TRANSIT (federal and state fiscal years combined), \$16,259,527 or 13.9 percent of federal contract dollars was won by DBEs. Small Business Enterprises received \$43,549,669 or 25.6 percent of state contract dollars. \$59,809,196 was won by DBEs and SBEs.

Hudson-Bergen Light Rail Transit System Project

Of \$1,225,841,032 in contract dollars awarded for the Hudson-Bergen Light Rail Transit System project****, \$162,208,398 or 13.2 percent has been received by DBEs. Of the \$162,208,398, 6.9 percent or \$84,260,291 has been won by Women Business Enterprises (WBEs) who are classified as DBEs.

*Fiscal year beginning October 1, 2003

**Fiscal Year beginning July 1, 2003

***Cat 1-Less than \$500,000 gross revenues, Cat 2-Less than \$5 million, Cat 3-Less than \$12 million, Cat 4(construction)-Less than \$1million, Cat 5(construction)-Less than \$17,420,000

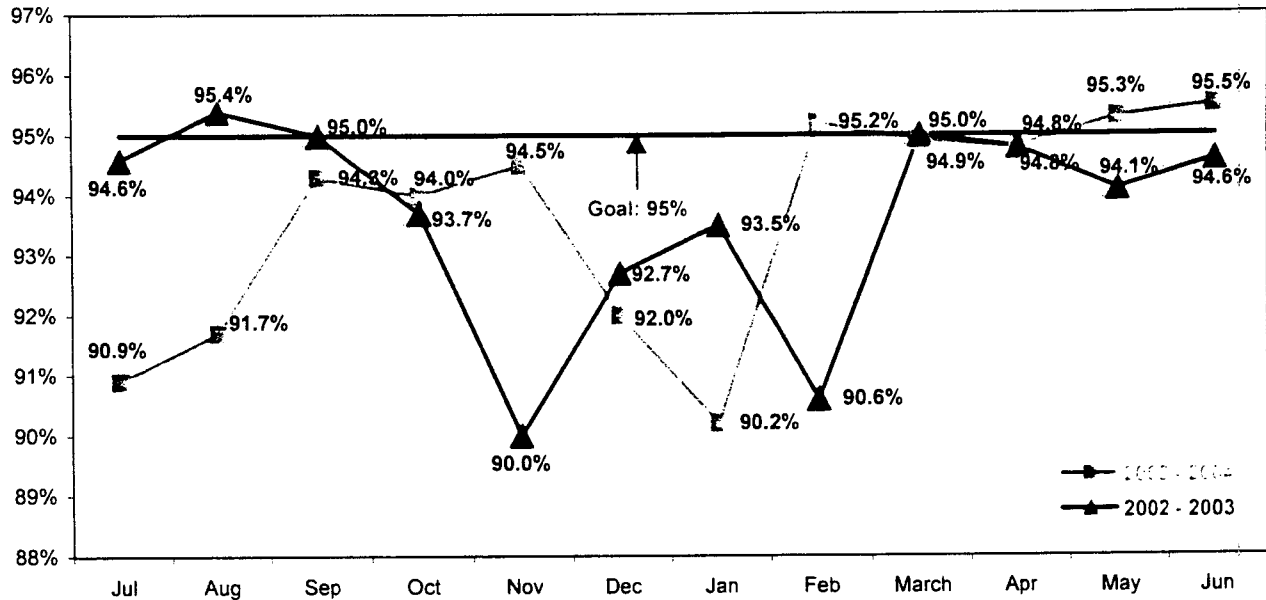
****This YTD figure reflects Federal dollars expended on an annual basis, including change orders, for the period from December 1996 through May 2004.

PERFORMANCE MEASURES

NJ TRANSIT ON TIME PERFORMANCE RAIL JULY 2002 - JUNE 2004

35389

% Trains Reported Within 6 Minutes of Schedule



	2003	2004	# Change
June Comparison	94.6%	95.5%	0.9%

	2002 - 2003	2003 - 2004	# Change
12-Month Average July - June	93.7%	93.6%	-0.1%

Analysis:

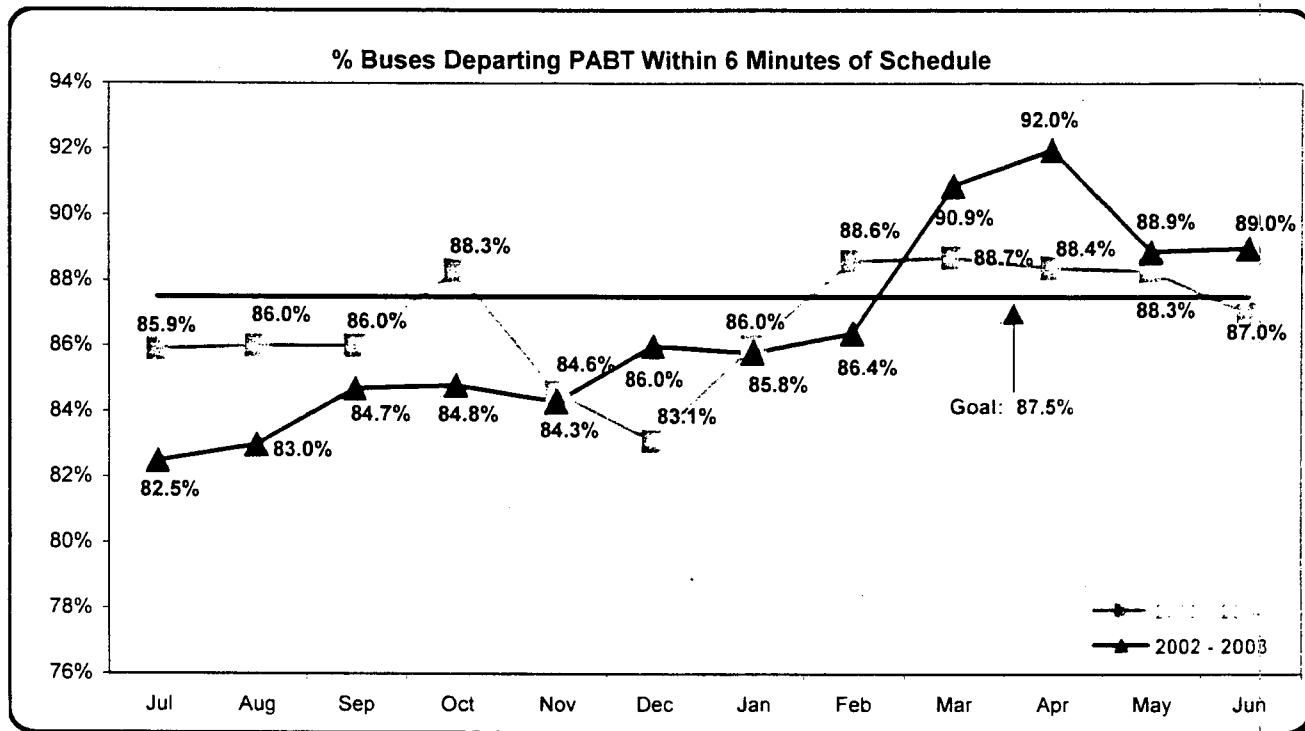
Rail On Time Performance for June 2004 was 95.5%, 0.9 of a percentage point above the 94.6% rate of June 2003. Of the 18,022 trains that were operated, 17,216 were on time, while 806 trains (or 4.5%) experienced delays.

The only delay factor of note was an Amtrak signal failure on June 9th, which resulted in 43 late trains during the PM peak period.

The 12-month average for Rail On Time Performance for June 2003 - June 2004 was 93.6%, slightly below the 93.7% average for the previous 12-month period.

NJ TRANSIT ON TIME PERFORMANCE BUS - PABT DEPARTURES JULY 2002 - JUNE 2004

35390



	2003	2004	# Change
June Comparison	89.0%	87.0%	-2.0%

	2002 - 2003	2003 - 2004	# Change
12-Month Average July - June	86.5%	86.7%	0.2%

Analysis:

Bus On Time Performance for June 2004 was 87.0%, 2.0 percentage points below the 89.0% rate of June 2003. Of the 19,734 PABT PM Peak departures, 2,574 (or 13.0%) were delayed.

Significant sources of delay included:

Closure and subsequent construction at Exit 16 on the New Jersey Turnpike on June 16th and 18th; and

Heavy rain and an accident on Route 3 on June 25th.

The 12-month average for Bus On Time Performance for June 2003 - June 2004 was 86.7%, slightly above the 86.5% average for the previous 12-month period.

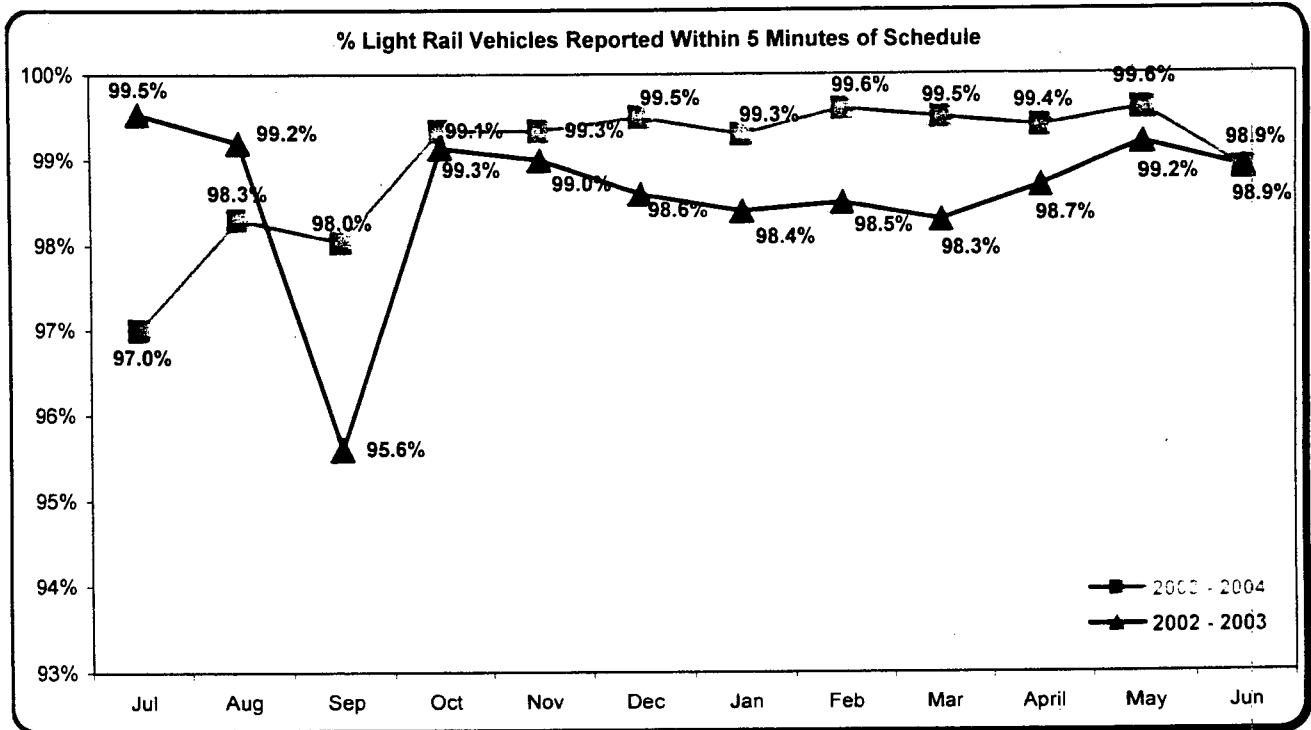
NJ TRANSIT

ON TIME PERFORMANCE

HUDSON BERGEN LIGHT RAIL

JULY 2002 - JUNE 2004

35391



	2003	2004	# Change
June Comparison	98.9%	98.9%	-

	2002 - 2003	2003 - 2004	# Change
12-Month Average July - June	98.6%	99.0%	0.4%

Analysis:

Hudson Bergen Light Rail (HBLR) On Time Performance for June 2004 was 98.9%, the same rate as June 2003. Of the 11,122 trips that were scheduled to operate, 123 (or 1.1%) were delayed.

Significant sources of delay Included:

Equipment failure on June 9th, resulting in 25 delays; and

Programmed maintenance on Saturday, June 12th, which resulted in 63 delays.

The 12-month average for HBLR On Time Performance for June 2003 - June 2004 was 99.0%, an increase of 0.4 of a percentage point above the average for the previous 12-month period.

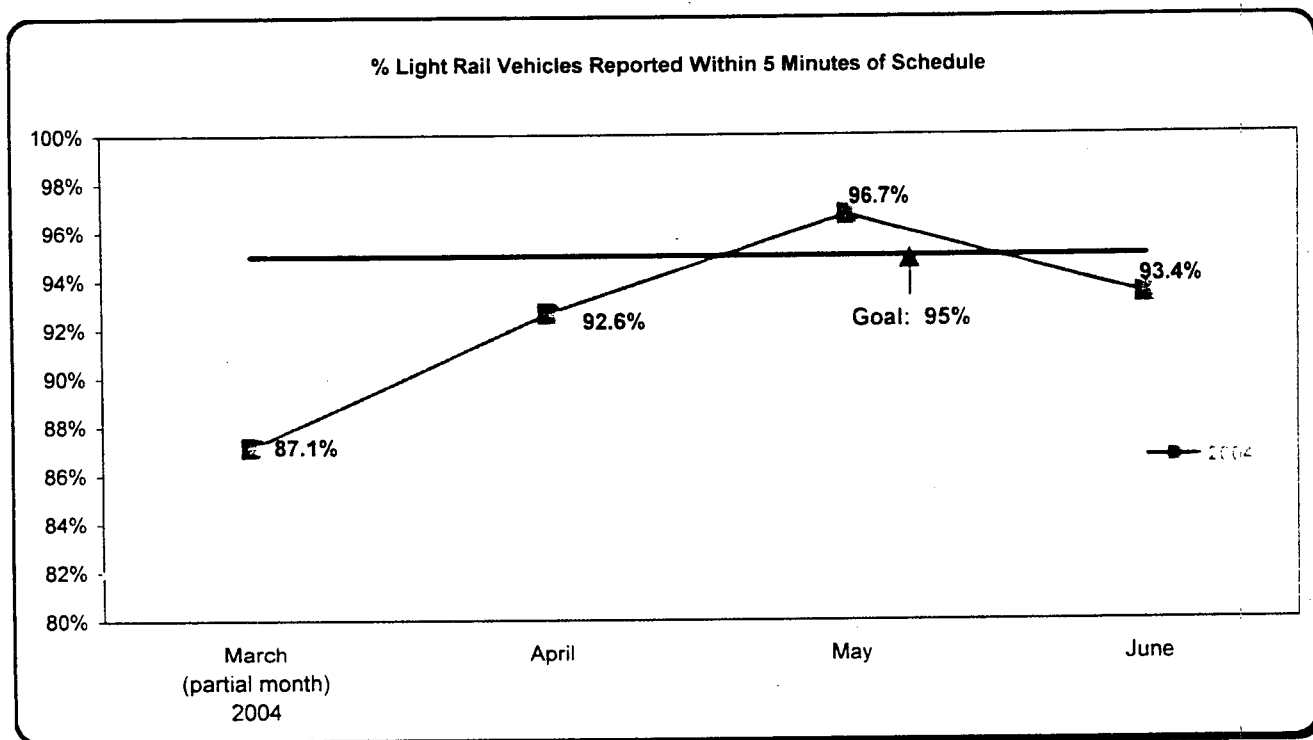
NJ TRANSIT

ON TIME PERFORMANCE

River LINE Light Rail

MARCH 2004 - JUNE 2004

35392



OTP Monthly Comparison	May 2004	June 2004	# Change
	96.7%	93.4%	-3.3%

Analysis:

River LINE began operating 15 minute peak service on June 21st. The total number of weekday trips increased from 76 trips per day to 105 trips per day, a 38% increase in the level of service. Despite increased service, River LINE On Time Performance for June 2004 was still close to goal, with a monthly average of 93.4%.

Sources of delay varied and were not directly attributable to the increased service levels. Significant sources of delay included:

Problems with the Central Control Computer, which resulted in a total of 9 delays over June 10th and 18th;

Equipment and signal failures, which caused a total of 45 delays over June 4th, 12th and 22nd; and

Heavy concert traffic in Camden, resulting in a total of 25 delays over June 18th, 27th and 29th. NJ TRANSIT and Camden local police are working to minimize delays at the Entertainment Center during events.

ACTION ITEMS

ITEM 0407-40: FISCAL YEAR 2005 OPERATING BUDGET**BENEFITS**

Staff seeks the Board's adoption of the Fiscal Year 2005 operating budget and authorization to continue to expend funds to meet obligations until the adoption of a Fiscal Year 2006 budget. The budget includes expenditures of \$1.342 billion offset by \$618.7 million of passenger revenue and other system generated revenues, \$278.7 million in State operating assistance and \$444.8 million from other State and Federal reimbursements. Approval of this budget is necessary to direct resources to support the continued operation of NJ TRANSIT bus, rail and light rail services.

The proposed FY 2005 Operating Budget continues the agency's focus on "Back to Basics" and operating as efficiently as possible. The recommended budget provides continued funding for core services, funds key new service initiatives, avoids a fare increase and begins to reverse a decade-long trend of increased reliance on capital program resources for operating budget needs. Highlights of the proposed budget follow:

- **State Operating Assistance Increase** – The proposed budget includes an \$84.9 million increase in State operating assistance to a total appropriation of \$278.7 million. This represents both the largest single one-year increase and highest total annual State operating appropriation in the agency's history.
- **No Fare Increase** - For the 13th time in 14 years, NJ TRANSIT's budget avoids a fare increase. Over a period of time when the Consumer Price Index for the region has increased by approximately 40 percent, NJ TRANSIT fares are up by only 10 percent.
- **Capital Program Support for Operating** – The proposed FY 2005 Budget virtually freezes the level of capital program support for operating costs at the FY 2004 budgeted level. This is an important first step towards reversing a decade long trend of increased reliance on the State Transportation Trust Fund and Federal capital grants to support operating costs.
- **New Service Initiatives** – The proposed budget provides increased funding for new service initiatives including the annualization of rail service increases implemented in FY 2004 concurrent with the opening of the Secaucus Junction Station, the first full year of River Line Light Rail service and the anticipated extension of Hudson Bergen Light Rail service north of Hoboken in the summer of 2004.
- **Customer Service** – The proposed budget includes increased funding for key customer service initiatives including increases in Rail on-board personnel to assist customers, customer service staffing increases at Penn Station New York and additional funding for the maintenance of customer ticketing equipment and public address systems.
- **Operating Efficiently** – While providing increased funding for new service initiatives and other management priorities, the proposed budget contains expenditure growth to

less than 3 percent (or less than 2 percent if the funding for new initiatives is excluded). In order to live within these constraints, NJ TRANSIT has identified approximately \$30 million in savings. This is in addition to approximately \$27 million in savings that were included in the FY 2004 Operating Budget.

PURPOSE

As required under Article II, Section 4(C) of the agency's By-Laws, staff is requesting that the Board of Directors adopt a final budget for NJ TRANSIT as detailed on the attached exhibits. This budget includes appropriations for public transportation contained in the State Budget adopted by the New Jersey legislature. With the approval of this item, the Board acknowledges and accepts its responsibility to set fares, administer a single, unified NJ TRANSIT budget and manage Federal Transit Administration assistance.

Approval of this item will also allow the execution of numerous agreements necessary to advance and continue its Private Carrier Capital Improvement Program, timetable distribution, debit and credit card processing and settlement services, marketing and human resource programs and provide for memberships in professional associations. It will also allow NJ TRANSIT to provide local share and other in-kind services or act as a pass-through agency for Federal or State capital or operating funds.

In addition to seeking approval of the FY 2005 operating budget, staff is requesting authorization to continue to expend funds to meet NJ TRANSIT's obligations until the adoption of a Fiscal Year 2006 budget. NJ TRANSIT is required by its By-Laws to adopt a final budget at its annual meeting in June if the State of New Jersey has completed the process of appropriating funds for public transportation purposes or at the first meeting subsequent to action by the State. Since the State budget process is often not completed before NJ TRANSIT's annual meeting in June, staff may not be able to make final recommendations to the Board on the FY 2006 budget prior to the start of the fiscal year. Therefore, authorization to expend funds to carry on NJ TRANSIT's day-to-day business is necessary.

ACTION

Staff recommends the Board's adoption of the proposed Fiscal Year 2005 operating budget as detailed in the item and on the attached exhibits.

This item has been reviewed and recommended by the Board Administration and Capital Planning, Policy and Privatization Committees.

FISCAL IMPACTS

Requested Authorization:	\$1.342 billion
Total Project Cost:	N/A
Projected Date of Completion:	June 30, 2005
Anticipated Source of Funds:	Passenger and other revenues State operating assistance Other State and Federal reimbursements
DBE Goals/Participation:	N/A
Related/Future Authorizations:	N/A

FISCAL YEAR 2005 OPERATING BUDGET

RESOLUTION

WHEREAS, Article II, Section 4(C) of the By-Laws requires the Board of Directors to adopt a final budget for NJ TRANSIT after the State of New Jersey has completed the process of appropriating funds, as required by June 30, for public transportation purposes; and

WHEREAS, the New Jersey legislature has enacted a Fiscal Year 2005 State Budget which includes appropriations for public transportation purposes; and

WHEREAS, staff has recommended a proposed Fiscal Year 2005 operating budget for NJ TRANSIT as detailed in the item and Exhibits A, B and C attached hereto; and

WHEREAS, the proposed FY 2005 budget recognizes State operating assistance of \$278.7 million; and

WHEREAS, it is also necessary for NJ TRANSIT to enter into numerous agreements in order to advance and continue its Private Carrier Capital Improvement Program, timetable distribution, debit and credit card processing and settlement services, marketing and human resource programs including memberships in professional associations as described in the item attached hereto; and

WHEREAS, if the State's FY 2006 Budget is not finalized prior to the June 2005 NJ TRANSIT Board meeting, the Board may defer adoption of the annual budget until the next special or regular Board meeting subsequent to the final actions by the State; and

WHEREAS, if the Board is unable to approve a FY 2006 budget prior to July 2005, it will be necessary to expend funds after July 1, 2005, prior to the final adoption of the FY 2006 budget;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors acknowledges and accepts its responsibility to set fares, administer a single, unified NJ TRANSIT operating budget, and that the Board recognizes its responsibility to accept and manage State and Federal Transit Administration assistance; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to continue or enter into any agreements and expend funds in order to continue NJ TRANSIT's Private Carrier Capital Improvement and Bus Rehabilitation Programs, timetable distribution, debit and credit card processing and settlement services, marketing and human resource programs as described in the item attached hereto and pay the necessary fees associated with professional and technical organizations, subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to provide local share and other in-kind services or act as a pass-through agency for Federal or State capital or operating funds subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to expend, in the normal course of business, the funds necessary to meet NJ TRANSIT's obligations, essentially in accordance with this FY 2005 operating budget item, resolution and attachments and until the adoption and approval of the Fiscal Year 2006 operating budget.

EXHIBIT A**FISCAL YEAR 2005
OPERATING BUDGET
REVENUES****Overview**

NJ TRANSIT revenues are budgeted at \$1.342 billion, an increase of \$38.2 million, or 2.9 percent, over the FY 2004 Budget. The revenue budget reflects increases in State operating assistance and passenger revenue partially offset by reductions attributable to certain non-recurring FY 2004 revenues.

Ridership/Passenger Revenue

The FY 2005 Budget includes passenger revenue of \$558.9 million, an increase of \$21.9 million over the FY 2004 Budget. This reflects an improving trend on core system ridership and revenue along with anticipated growth from new service initiatives. After modest decreases in ridership in FY 2002 and FY 2003, trends have begun to improve in FY 2004. For the first eleven months of the fiscal year, system ridership is up by more than 2 percent with each quarter exhibiting an improving trend over the previous quarter. The FY 2005 Budget assumes these trends will continue to improve with core system growth projected at 4 percent for Rail and 2 percent for Bus. The budget also includes additional growth related to the annualization of Secaucus Junction and River Line Light Rail service implemented in FY 2004, the extension of the Hudson Bergen Light Rail Line and the opening of the new Montclair State University Rail Station.

Other Revenue

Other revenues are budgeted at \$59.8 million, a decrease of \$64.0 million compared to the FY 2004 Budget. This reduction reflects the fact that the FY 2004 Budget included \$65 million in non-recurring revenues including leveraged lease proceeds, the carryforward of prior year surpluses and other one-time items. Additional proceeds from leveraged leases are in doubt due to an FTA moratorium in approving these transactions and pending legislation to eliminate this funding source. Furthermore, current FY 2004 budget versus actual projections do not support the availability of a surplus to carryforward to FY 2005.

State Operating Assistance

The FY 2005 Budget includes State operating assistance of \$278.7 million, an increase of \$84.9 million compared to the FY 2004 Budget. This is the largest one-year increase in NJ TRANSIT's history and brings the agency's appropriation to the highest it has ever been.

Other State and Federal Reimbursements

Other State and Federal reimbursements are budgeted at \$444.8 million, a decrease of \$4.6 million compared to the FY 2004 Budget. This includes funding for designated

expenses including maintenance costs, new service initiatives and a variety of other reimbursable projects. The proposed budget virtually freezes the level of capital program funds that are transferred to cover operating costs at \$356 million. This important step begins to the reverse a decade-long trend of increased reliance on the State Transportation Trust Fund and Federal capital grants to support operating needs.

EXHIBIT B

**FISCAL YEAR 2005
OPERATING BUDGET
EXPENSES**

Overview

NJ TRANSIT expenses are budgeted at \$1.342 billion, an increase of \$38.2 million, or 2.9 percent, over the FY 2004 Budget. Excluding funding increases for Secaucus Junction, River LINE and Hudson Bergen Light Rail new service initiatives, the budgeted increase in expenses is less than 2 percent.

Labor and Fringes

Labor and fringes are budgeted at \$807.5 million, an increase of \$18.9 million over the FY 2004 Budget. The budget includes growth consistent with approved agreement labor contracts and a modest increase in fringe rates primarily due to rising medical costs. The labor budget also includes increased funding for customer service initiatives and the annualization of Secaucus Junction service increases implemented in FY 2004. These increases are partially offset by savings in other areas including holding certain vacant positions open and reductions in overtime.

Fuel, Power, Materials and Supplies

Fuel, power, materials and supplies costs are budgeted at \$166.6 million, an increase of \$6.3 million over the FY 2004 Budget. This assumes average diesel fuel prices at \$.98/gallon, an increase of approximately \$.13 over the FY 2004 budget but approximately \$.25 lower than current diesel fuel prices. The budget also reflects increases in Rail electric propulsion costs due to the annualization of Secaucus Junction service increases. Materials and supplies costs are budgeted essentially at FY 2004 levels.

Purchased Transportation

Purchased transportation expenses are budgeted at \$151.2 million, an increase of \$8.0 million over the FY 2004 Budget. The budget includes increased funding for the first full year of River LINE Light Rail service and for the implementation of the first phase of Hudson Bergen Light Rail MOS-2 service north of Hoboken in the summer of 2004.

Other Expenses

All other expenses are budgeted at \$216.9 million, an increase of \$5.0 million over the FY 2004 Budget. This includes funding for outside services, utilities, claims, insurance, tolls, trackage fees and other miscellaneous costs. Growth in these costs is due to increases in Amtrak access fees and customer ticketing and public address system equipment maintenance services partially offset by reductions in management consultant costs, Bus toll savings on the N.J. Turnpike and other miscellaneous efficiencies.

EXHIBIT C

NEW JERSEY TRANSIT CONSOLIDATED OPERATIONS
FY 2005 Proposed Operating Budget
(\$ in millions)

REVENUES

Passenger Revenue	\$558.9
Other Revenue	<u>59.8</u>

TOTAL REVENUE	\$618.7
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OPERATING ASSISTANCE

State Operating Assistance	\$278.7
Capital Transfers	356.0
Other Reimbursements	<u>88.8</u>

TOTAL OPERATING ASSISTANCE	\$723.5
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<u>TOTAL REVENUE & OPERATING ASSISTANCE</u>	<u>\$1,342.2</u>
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EXPENSES

Labor and Fringes	\$807.5
Services	83.8
Fuel & Power	64.7
Materials & Supplies	101.9
Utilities	29.2
Claims & Insurance	28.9
Purchased Transportation	151.2
Tolls & Trackage Fees	51.1
Other	<u>23.9</u>

<u>TOTAL EXPENSES</u>	<u>\$1,342.2</u>
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ITEM 0407-41: FISCAL YEAR 2005 CAPITAL PROGRAM**BENEFITS**

NJ TRANSIT's \$1.188 billion FY05 Capital Program targets projects furthering NJ TRANSIT's "Back to Basics" approach to capital investment. It reaffirms and strengthens priorities aimed at providing the required resources to address the daily needs of the 750,000 existing transit riders served by NJ TRANSIT's core system. NJ TRANSIT'S FY05 Capital Program will enable the Corporation to continue to invest in priorities that ensure safe and reliable transit service.

Consistent with NJ TRANSIT's Capital Investment Strategy, the FY05 Capital Program foremost calls for continued investment in the state's transit infrastructure in order to improve the overall state-of-good repair of the system. This improves reliability and safety of the transit system and ensures continued satisfaction of existing customers. The FY05 Capital Program also includes projects that expand capacity of the existing system such as new park and rides. The Capital Program also continues to fund the advancement of Access to Region's Core (ARC), which will double trans-Hudson capacity. Finally, the FY05 Capital Program advances selective service expansions that work with and fully complement prior investments, such as Hudson Bergen Light Rail expansions.

Anticipated resources of \$1.188 billion are estimated to be available from federal, state and other sources in FY05. A summary of the FY05 Sources of Funds is presented in **Attachment 1**. The FY05 Capital Program includes over \$110 million reallocated from projects with unused balances from prior years to help fund this year's program. This funding supplements new funding sources to maintain a capital program level of over \$1.1 billion.

Attachments 2 and 3 summarize funds and percent of the total program by category. About two-thirds of the FY05 Capital Program – \$772 million – is dedicated to fixed expenses, including Operating Offset, Debt Service and Pass-throughs of earmarked funds. In FY05,

- \$356 million will be spent to pay for Capital to Operating Offset transfer, including \$270 million in critical operating maintenance funds for both rail and bus. This virtually freezes the level of Capital Program support for operating costs at the FY2004 level;
- \$301 million will be spent on debt service related to the acquisition of buses, trains, locomotives and the construction of light rail projects for; and
- \$115 million will be spent using funds mandated for a specific use including the federal rural transit program, the federal Jobs Access Reverse Commute (JARC) Program and other earmarks secured by the New Jersey Congressional Delegation.

Over one-third of the program – or \$416 million – funds the basic capital program; resources needed to maintain and improve a transit system. In FY05,

- \$253 million will be invested in rail state-of-good repair needs including \$31 million to fund the rehabilitation of the M&E Viaduct, \$13 million to continue the overhaul of the Arrow III fleet to maintain reliability, and \$42 million to fund state-of-good repair needs on the Northeast Corridor;
- \$18 million will be invested in bus and light rail state-of-good-repair needs (the capital program also calls for financing the replacement of approximately 290 transit buses that have exceeded their useful lives);
- \$62 million will be invested in system-wide improvements, including \$9 million for technology upgrades that both improve efficiency and reduce annual operating costs and \$15 million to improve our on-board announcement system which has been a key customer complaint;
- \$76 million will be invested in rail station improvements at Newark Broad Street, Ridgewood, Trenton and Metropark Stations among others; and
- \$7.5 million will be provided for park and ride expansion to meet the Governor's 20,000 additional space plan, including expansion in parking at Edison and Rahway Stations.

PURPOSE

The annual capital program is formulated to guide NJ TRANSIT's capital investment plans for the coming year. The authority embodied in the Board's approval of this Capital Program permits staff to take the necessary steps to secure funds from various sources and initiate individual capital projects (subject to subsequent contract authorization as required by the NJ TRANSIT By-Laws.) The program is submitted to various Metropolitan Planning Organizations (MPOs) throughout the State whose approvals are required as a prerequisite to Federal grant awards, and the State Legislature as part of that body's annual appropriation process and is consistent with the Capital Investment Strategy submitted to the Legislature.

ACTION

Staff seeks the Board's adoption of the proposed Fiscal Year 2005 (FY05) Capital Program totaling \$1,188.205 billion and authorization to seek and secure necessary funding and execute agreements, as required, to accept such funding.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee and the Administration Committee.

FISCAL IMPACTS

Anticipated Source of Funds:	Federal transit and highway funds; Transportation Trust Funds; Port Authority of New York and New Jersey funds; other capital sources
DBE Goal:	Included in individual contracts
Related/Future Authorizations:	N/A
Impacts on Subsequent Operating Budgets:	N/A

RESOLUTION

WHEREAS, each year NJ TRANSIT's Board of Directors adopts a Capital Program for the upcoming year to enable staff to take the actions necessary to seek and secure capital funding which advances established priorities; and

WHEREAS, the FY05 Capital Program will address the needs of existing transit riders by emphasizing "back to basic" priorities that ensure system reliability and safety through state of good repair investments, address pressing system capacity demands, and invest in planned system expansion; and

WHEREAS, the Capital Program will be consistent with the Annual Capital Investment Strategy submitted to the State Legislature; and

WHEREAS, the Capital Program is submitted to various Metropolitan Planning Organizations throughout the state whose approvals are required as a prerequisite to Federal grant awards; and

WHEREAS, the Capital Program is submitted to the State Legislature for consideration as part of its annual budget appropriation process;

NOW, THEREFORE, BE IT RESOLVED that the NJ TRANSIT Board of Directors adopts the Fiscal Year 2005 Capital Program in the amount of \$1,188.205 billion, as described; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to take whatever actions are necessary to seek and secure the funds envisioned by this program; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to transfer funding sources and amounts among programmed projects as circumstances require; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to make application,

execute contracts and to take whatever other actions are necessary to seek and secure unanticipated funds, consistent with the basic intent of this program, which may become available subsequent to its adoption.

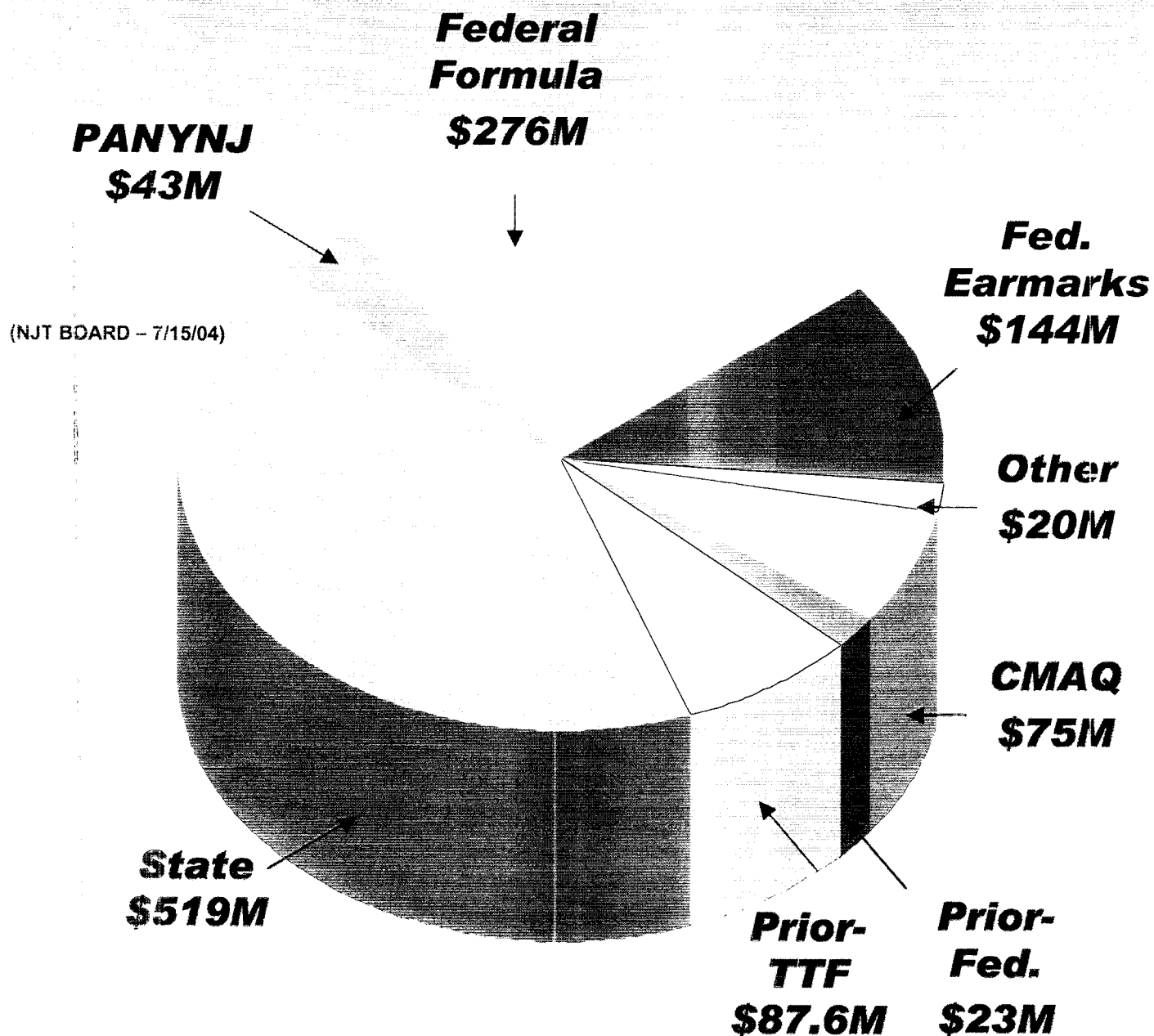
ATTACHMENT 1

NJ TRANSIT

FY05 CAPITAL PROGRAM

Sources of Funds

\$1.188 Billion



ATTACHMENT 2

**NJ TRANSIT FY05 CAPITAL PROGRAM
SUMMARY
(\$ in millions)**

CATEGORY	AMOUNT	PERCENT
OPERATING/MAINTENANCE	\$355.965	30.0%
DEBT SERVICE	\$300.850	25.3%
PASS-THROUGH	\$114.520	9.6%
RAIL STATE OF GOOD REPAIR	\$252.850	21.3%
RAIL STATION IMPROVEMENTS	\$76.460	6.4%
PARK & RIDE IMPROVEMENTS	\$7.50	.6%
BUS/LIGHT RAIL SOGR	\$18.00	1.5%
SYSTEMWIDE IMPROVEMENTS	\$62.06	5.2%
TOTAL	\$1,188.205	100%

NJ TRANSIT FY05 CAPITAL PROGRAM

(\$ in Millions)

FEDERAL FUNDING

FIXED
URBAN GUIDEWAY
5307 5309 Rural/Disabled

EARMARK

FFGA

CMAQ

STATE

PRIOR-STATE

PRIOR-FED

OTHER

TOTAL

Percentage of
Total Program

Operating Offset

RAIL

NEC Services Agreement	0.000	0.000	0.000	0.000	0.000	0.000	27.500	0.000	0.000	0.000	27.500	
Operating/Maintenance	0.000	91.130	0.000	0.000	0.000	0.000	57.170	0.000	0.000	0.000	148.300	
<u>RAIL</u> SUBTOTAL	0.000	91.130	0.000	0.000	0.000	0.000	84.670	0.000	0.000	0.000	175.800	<u>14.8%</u>

BUS/LRT

Operating/Maintenance	58.260	0.000	0.000	0.000	0.000	0.000	63.800	0.000	0.000	0.000	122.060	
<u>BUS/LRT</u> SUBTOTAL	58.260	0.000	0.000	0.000	0.000	0.000	63.800	0.000	0.000	0.000	122.060	<u>10.3%</u>

NEW INITIATIVES

Operating Assistance Start-Up	0.000	0.000	0.000	0.000	0.000	48.810	0.000	0.000	0.000	0.000	48.810	
New Transit Services												
<u>NEW INITIATIVES</u> SUBTOTAL	0.000	0.000	0.000	0.000	0.000	48.810	0.000	0.000	0.000	0.000	48.810	<u>4.1%</u>

SYSTEMWIDE

Building Leases	0.000	0.000	0.000	0.000	0.000	0.000	9.295	0.000	0.000	0.000	9.295	
<u>SYSTEMWIDE</u> SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	9.295	0.000	0.000	0.000	9.295	<u>0.8%</u>

TOTAL	58.260	91.130	0.000	0.000	0.000	48.810	157.765	0.000	0.000	0.000	355.965	<u>30.0%</u>
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NJ TRANSIT FY05 CAPITAL PROGRAM

(\$ in Millions)

FEDERAL FUNDING

FIXED
URBAN GUIDEWAY
5307 5309 Rural/Disabled

EARMARK

FFGA

CMAQ

STATE

PRIOR-STATE

PRIOR-FED

OTHER

TOTAL

Percentage of
Total Program

Debt Service

RAIL

Rolling Stock-Rail	23.800	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	23.800
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RAIL	SUBTOTAL	23.800	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	23.800	2.0%
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BUS/LRT

Rolling Stock-Bus	54.500	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	54.500
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Rolling Stock-Private Carriers	38.300	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	38.300
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Newark City Subway	0.000	0.000	0.000	0.000	0.000	0.000	5.510	0.000	0.000	0.000	0.000	5.510
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BUS/LRT	SUBTOTAL	92.800	0.000	0.000	0.000	0.000	0.000	5.510	0.000	0.000	0.000	98.310	8.3%
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NEW INITIATIVES

Hudson/Bergen LRT MOS I	0.000	0.000	0.000	0.000	0.000	0.000	10.000	0.000	0.000	0.000	0.000	10.000
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Hudson/Bergen LRT MOS II	0.000	0.000	0.000	0.000	100.000	0.000	19.400	0.000	0.000	0.000	0.000	119.400
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NERL LRT MOS I	0.000	0.000	0.000	0.000	1.340	0.000	0.000	0.000	0.000	0.000	0.000	1.340
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River Line LRT	0.000	0.000	0.000	0.000	0.000	0.000	48.000	0.000	0.000	0.000	0.000	48.000
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NEW INITIATIVES	SUBTOTAL	0.000	0.000	0.000	0.000	101.340	0.000	77.400	0.000	0.000	0.000	178.740	15.0%
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TOTAL		116.600	0.000	0.000	0.000	101.340	0.000	82.910	0.000	0.000	0.000	300.850	25.3%
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Attachment 3
NJ TRANSIT FY05 CAPITAL PROGRAM
(\$ in Millions)

35412

FEDERAL FUNDING

FIXED
 URBAN GUIDEWAY
 5307 5309 Rural/Disabled

EARMARK FFQA CMAQ STATE PRIOR-STATE PRIOR-FED OTHER TOTAL Percentage of Total Program

Pass-through**RAIL**

Hoboken Ferry Terminal Rehabilitation	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	43.000	43.000
New Clinton/Route 78 Rail Station	0.000	0.000	0.000	1.383	0.000	0.000	0.000	0.000	0.000	0.000	1.383
New Howard Boulevard/Route 80 Rail Station	0.000	0.000	0.000	7.073	0.000	0.000	0.000	0.000	0.000	0.000	7.073
New Old Bridge/Parkway Rail Station	0.000	0.000	0.000	0.491	0.000	0.000	0.000	0.000	0.000	0.000	0.491
Newark Penn Station	0.000	0.000	0.000	4.927	0.000	0.000	0.000	0.000	0.000	0.000	4.927
North Hackensack/Route 4 Parking Deck	0.000	0.000	0.000	4.480	0.000	0.000	0.000	0.000	0.000	0.000	4.480
South Amboy Rail Station Reconstruction	0.000	0.000	0.000	0.982	0.000	0.000	0.000	0.000	0.000	0.000	0.982
Trenton Train Station	0.000	0.000	0.000	7.172	0.000	0.000	0.000	0.000	0.000	0.000	7.172

RAIL	SUBTOTAL	0.000	0.000	0.000	26.508	0.000	0.000	0.000	0.000	0.000	43.000	69.508	<u>5.8%</u>
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BUS/LRT

Cumberland County Bus Program	0.900	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.900
East Windsor Community Shuttle	0.100	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.100
Non-Regular Rte./Special Services	0.000	0.000	3.060	1.876	0.000	0.000	0.710	0.000	0.000	0.000	5.646

BUS/LRT	SUBTOTAL	1.000	0.000	3.060	1.876	0.000	0.000	0.710	0.000	0.000	0.000	6.646	<u>0.6%</u>
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NEW INITIATIVES

Transit Rail Initiatives	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	12.300	12.300
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NEW INITIATIVES	SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	12.300	12.300	<u>1.0%</u>
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SYSTEMWIDE

Access to Region's Core	0.000	0.000	0.000	3.500	0.000	0.000	0.000	0.000	0.000	0.000	3.500
Job Access and Reverse Commute Program	0.000	0.000	0.000	4.000	0.000	0.000	0.000	0.000	0.000	4.000	8.000
Lackawanna Cutoff	0.000	0.000	0.000	4.480	0.000	0.000	0.000	0.000	0.000	0.000	4.480
Non-Regular Rte./Special Services	0.000	0.000	3.790	0.000	0.000	0.000	0.000	0.000	0.000	3.790	7.580
Transit Enhancements	1.756	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.756

SYSTEMWIDE	SUBTOTAL	1.756	0.000	3.790	11.980	0.000	0.000	0.000	0.000	0.000	7.790	25.316	<u>2.1%</u>
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Technology/Customer Service

ITS Grant	0.000	0.000	0.000	0.750	0.000	0.000	0.000	0.000	0.000	0.000	0.750
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Technology/Customer Service	SUBTOTAL	0.000	0.000	0.000	0.750	0.000	0.000	0.000	0.000	0.000	0.000	0.750	<u>0.1%</u>
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TOTAL	2.756	0.000	6.850	41.114	0.000	0.000	0.710	0.000	0.000	63.090	114.520	<u>9.6%</u>
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NJ TRANSIT FY05 CAPITAL PROGRAM

(\$ in Millions)

FEDERAL FUNDING

FIXED
URBAN GUIDEWAY
5307 5309 Rural/Disabled

EARMARK

FFGA

CMAQ

STATE

PRIOR-STATE

PRIOR-FED

OTHER

TOTAL

Percentage of
Total Program**Rail SOGR****RAIL**

Automatic Train Control/Positive Train Stop	0.000	0.000	0.000	0.000	0.000	0.000	13.500	0.000	0.000	0.000	13.500	
Bridges	0.000	0.000	0.000	0.000	0.000	0.000	5.500	13.500	0.000	0.000	19.000	
Emergency Response Rail	0.000	0.000	0.000	0.000	0.000	0.000	1.000	0.000	0.000	0.000	1.000	
Hudson Interlocking Reconfig./NEC Pocket Track	0.000	0.000	0.000	0.000	0.000	0.000	4.350	0.000	0.000	0.000	4.350	
M&E Viaducts Rehabilitation	0.000	0.000	0.000	0.000	0.000	0.000	31.000	0.000	0.000	0.000	31.000	
Meadows Maintenance Complex Expansion	0.000	0.000	0.000	0.000	0.000	13.000	0.000	0.000	0.000	0.000	13.000	
Morrisville Yard Expansion - Phase 2	0.000	0.000	0.000	0.000	0.000	0.000	22.000	0.000	0.000	0.000	22.000	
NEC Joint Benefit Program	0.000	0.000	0.000	0.000	0.000	0.000	24.500	15.520	0.000	0.000	40.020	
ROC Emergency Backup Facility	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.000	0.500	
Signals&Communication/Electric Traction	0.000	0.000	0.000	0.000	0.000	0.000	9.121	9.379	0.000	0.000	18.500	
Track	0.397	0.000	0.000	0.000	0.000	0.000	10.105	5.498	0.000	0.000	16.000	
Yards/Facilities	0.000	0.000	0.000	0.000	0.000	0.000	9.130	0.000	0.000	0.000	9.130	
Metropark Platform Replacement	0.000	0.000	0.000	0.000	0.000	0.000	9.000	0.000	0.000	0.000	9.000	
NEC Joint Benefit -Newark Penn	0.000	0.000	0.000	1.980	0.000	0.000	0.000	0.000	0.000	0.000	1.980	
Passenger/Support Facilities	0.000	0.000	0.000	0.000	0.000	0.000	0.000	3.000	0.000	0.000	3.000	
Woodbridge Platform Replacement	0.000	0.000	0.000	0.000	0.000	0.000	4.000	0.000	0.000	0.000	4.000	
Fleet Overhauls	0.000	0.000	0.000	0.000	0.000	0.000	0.000	17.100	0.000	0.000	17.100	
FRA Mandates	0.000	0.000	0.000	0.000	0.000	0.000	0.000	1.600	0.000	0.000	1.600	
RAIL SUBTOTAL	0.397	0.000	0.000	1.980	0.000	13.000	143.706	65.597	0.000	0.000	224.680	18.9%

SYSTEMWIDE

Emergency Response Capital Planning & Programs	0.000	0.000	0.000	0.000	0.000	0.000	12.920	0.000	0.000	0.000	12.920	
Emergency Response Headquarters	0.000	0.000	0.000	0.000	0.000	0.000	0.000	15.000	0.000	0.000	15.000	
Physical Plant	0.000	0.000	0.000	0.000	0.000	0.000	0.250	0.000	0.000	0.000	0.250	
SYSTEMWIDE SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	13.170	15.000	0.000	0.000	28.170	2.4%

TOTAL	0.397	0.000	0.000	1.980	0.000	13.000	156.876	80.597	0.000	0.000	252.850	21.3%
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NJ TRANSIT FY05 CAPITAL PROGRAM

(\$ in Millions)

-----FEDERAL FUNDING-----

FIXED
URBAN GUIDEWAY
5307 5309 Rural/Disabled

EARMARK

FFGA

CMAQ

STATE

PRIOR-STATE

PRIOR-FED

OTHER

TOTAL

Percentage of
Total Program

Rail Station ImprovementsRAIL

Madison Station ADA Improvements	0.000	0.000	0.000	0.000	0.000	0.000	3.170	0.000	0.000	0.000	3.170	
Morristown Station Restoration (ADA)	0.000	0.000	0.000	0.000	0.000	0.000	0.570	0.000	0.000	0.000	0.570	
Newark Broad Street Station ADA Improvements	0.000	0.000	0.000	0.000	0.000	13.190	0.000	0.000	21.930	0.000	35.120	
Ridgewood Train Station Accessibility Improvements	0.000	0.000	0.000	0.000	0.000	0.000	11.500	0.000	0.000	0.000	11.500	
South Amboy Grade Crossing	0.000	0.000	0.000	0.000	0.000	0.000	1.100	0.000	0.000	0.000	1.100	
South Amboy Rail Station Reconstruction	0.000	0.000	0.000	0.000	0.000	0.000	7.500	0.000	0.000	0.000	7.500	
Trenton Train Station	0.000	0.000	0.000	0.000	0.000	0.000	17.500	0.000	0.000	0.000	17.500	

<u>RAIL</u>	SUBTOTAL	0.000	0.000	0.000	0.000	0.000	13.190	41.340	0.000	21.930	0.000	76.460	<u>6.4%</u>
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TOTAL	0.000	0.000	0.000	0.000	0.000	13.190	41.340	0.000	21.930	0.000	76.460	<u>6.4%</u>
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NJ TRANSIT FY05 CAPITAL PROGRAM

(\$ in Millions)

FEDERAL FUNDING

FIXED

URBAN GUIDEWAY

5307

5309

Rural/Disabled

EARMARK

FFGA

CMAQ

STATE

PRIOR-STATE

PRIOR-FED

OTHER

TOTAL

Percentage of
Total Program

Park & Ride Improvements

RAIL

	5307	5309	Rural/Disabled	EARMARK	FFGA	CMAQ	STATE	PRIOR-STATE	PRIOR-FED	OTHER	TOTAL	Percentage of Total Program
Edison Parking Expansion	0.000	0.000	0.000	0.000	0.000	0.000	6.000	0.000	0.000	0.000	6.000	
Rahway Parking Deck (Equity Contribution)	0.000	0.000	0.000	0.000	0.000	0.000	1.500	0.000	0.000	0.000	1.500	
RAIL SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	7.500	0.000	0.000	0.000	7.500	0.6%
TOTAL	0.000	0.000	0.000	0.000	0.000	0.000	7.500	0.000	0.000	0.000	7.500	0.6%

Attachment 3
NJ TRANSIT FY05 CAPITAL PROGRAM
(\$ in Millions)

35416

FEDERAL FUNDING

FIXED
URBAN GUIDEWAY
5307 5309 Rural/Disabled

EARMARK**FFGA****CMAQ****STATE****PRIOR-STATE****PRIOR-FED****OTHER****TOTAL****Percentage of
Total Program****Bus/Light Rail SOGR**

BUS/LRT												
Bus Operations Support Equipment	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.500	
Emergency Response Bus Facilities	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Passenger Facilities	0.000	0.000	0.000	0.000	0.000	0.000	2.500	0.000	0.000	0.000	2.500	
ADA Access Link Vehicles	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000	
Metro B Bus Purchase (*Financed)	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	
Transit Bus Midlife Overhaul	0.000	0.000	0.000	0.000	0.000	0.000	7.000	0.000	0.000	0.000	7.000	
Newark City Subway	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.000	0.000	0.500	
Weehawken Pedestrian Overpass	0.000	0.000	0.000	0.000	0.000	0.000	2.500	0.000	0.000	0.000	2.500	
BUS/LRT SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	16.500	0.500	0.000	0.000	17.000	1.4%
=====												
NEW INITIATIVES												
Study & Development	0.000	0.000	0.000	0.000	0.000	0.000	1.000	0.000	0.000	0.000	1.000	
NEW INITIATIVES SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	1.000	0.000	0.000	0.000	1.000	0.1%
=====												
TOTAL	0.000	0.000	0.000	0.000	0.000	0.000	17.500	0.500	0.000	0.000	18.000	1.5%

Attachment 3
NJ TRANSIT FY05 CAPITAL PROGRAM
(\$ in Millions)

35417

FEDERAL FUNDING

FIXED
 URBAN GUIDEWAY
 5307 5309 Rural/Disabled

EARMARK FFGA CMAQ STATE PRIOR-STATE PRIOR-FED OTHER TOTAL Percentage of Total Program

Systemwide Improvements**RAIL**

Rail Rolling Stock Engineering Assistance	0.000	0.000	0.000	0.000	0.000	0.000	0.000	6.500	0.000	0.000	6.500
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RAIL	SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.000	6.500	0.000	0.000	6.500	<u>0.5%</u>
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BUS/LRT

Community & Local Shuttles	0.000	0.000	0.000	0.000	0.000	0.000	0.169	0.000	0.111	0.000	0.280
Vanpool Sponsorship Program	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.500	0.000	0.500

BUS/LRT	SUBTOTAL	0.000	0.000	0.000	0.000	0.000	0.169	0.000	0.611	0.000	0.780	<u>0.1%</u>
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SYSTEMWIDE

Capital Program Implementation	0.000	0.000	0.000	0.000	0.000	0.000	18.000	0.000	0.000	0.000	18.000
Claims Support	0.000	0.000	0.000	0.000	0.000	0.000	2.000	0.000	0.000	0.000	2.000
Environmental Compliance	0.000	0.000	0.000	0.000	0.000	0.000	1.500	0.000	0.000	0.000	1.500
Non-Regular Rte./Special Services	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.550	0.000	0.550
Photocopy Equipment Lease	0.000	0.000	0.000	0.000	0.000	0.000	0.750	0.000	0.000	0.000	0.750
Security Improvements	0.000	0.000	0.000	0.000	0.000	0.000	1.000	0.000	0.000	0.000	1.000
Study & Development	0.000	0.000	0.000	0.000	0.000	0.000	1.000	0.000	0.000	0.000	1.000
Transit Rail Initiatives	0.000	0.000	0.000	0.000	0.000	0.000	5.000	0.000	0.000	0.000	5.000
Vital Records	0.000	0.000	0.000	0.000	0.000	0.000	0.250	0.000	0.000	0.000	0.250

SYSTEMWIDE	SUBTOTAL	0.000	0.000	0.000	0.000	0.000	29.500	0.000	0.550	0.000	30.050	<u>2.5%</u>
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Technology/Customer Service

ADA Access Link Computers	0.000	0.000	0.000	0.000	0.000	0.000	0.970	0.000	0.000	0.000	0.970
Business Technology Productivity Improvements	0.000	0.000	0.000	0.000	0.000	0.000	8.730	0.000	0.000	0.000	8.730
Rail Public Address Upgrade/Onboard Communication	0.000	0.000	0.000	0.000	0.000	0.000	15.000	0.000	0.000	0.000	15.000
Technology Improvements	0.000	0.000	0.000	0.000	0.000	0.000	0.030	0.000	0.000	0.000	0.030

Technology/Customer Service	SUBTOTAL	0.000	0.000	0.000	0.000	0.000	24.730	0.000	0.000	0.000	24.730	<u>2.1%</u>
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TOTAL	0.000	0.000	0.000	0.000	0.000	0.000	54.399	6.500	1.161	0.000	62.060	<u>5.2%</u>
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FY05 GRAND TOTALS	178.013	91.130	6.850	43.094	101.340	75.000	519.000	87.597	23.091	63.090	1188.205	<u>100.0%</u>
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**ITEM 0407-42: NEWARK CITY SUBWAY BROAD STREET EXTENSION
CONTRACT 1 – TUNNEL CONSTRUCTION: CONSTRUCTION
CONTRACT AMENDMENT**

BENEFITS

The proposed contract amendment will allow construction of the Newark City Subway Broad Street Extension (NCSBSE) to address unanticipated site conditions and transfer responsibility for relocation of Public Service Electric & Gas (PSE&G) electrical utilities to the contractor to maintain the project schedule. These changes will reduce potential impacts to the remaining construction.

The overall project will provide light rail service between Newark Broad Street Station and Newark Penn Station and other downtown destinations including offices, retail, and entertainment attractions. It is also expected to contribute to local economic development.

PURPOSE

Authorization of this contract amendment will compensate the construction contractor for additional work and schedule delays caused by unanticipated field conditions adjacent to a PSE&G main transformer installation, the presence of previously unknown electric duct banks, and other unanticipated conditions on the project site.

In addition, the contract amendment will allow NJ TRANSIT to relocate electrical utility lines to the roadbed above the completed tunnel. The installation of underground utilities is normally performed by the utility companies, but will be bundled with the current construction contract to improve project schedule coordination and reliability.

ACTION (Capital Program Justification: New System Expansion)

Staff seeks authorization to amend the contract (No. 02-024) with E. E. Cruz of Holmdel, NJ for the construction of the Newark City Subway Broad Street Extension Tunnel at a cost not to exceed \$900,000, plus five percent for contingencies for additional costs as a result of unforeseen subsurface conditions involving PSE&G electrical power infrastructure and an additional cost not to exceed \$500,000, plus five percent for contingencies for work required for the relocation of PSE&G electrical utilities.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization.

FISCAL IMPACTS

Requested Authorization: \$1,400,000 + 5% contingency

Total Project Cost: \$225,000,000

Projected Date of Completion: June 2006.

Anticipated Source of Funds: FTA Funds

DBE Goal: TBD

Related/Future Authorizations: None anticipated at this time.

**Impacts on Subsequent
Operating Budgets:**

Analysis conducted as part of the business plan development process, performed in 2004 indicates that the NCSBSE will generate an operating cost of \$1.6 million in annual Newark City Subway Operating Costs. Ridership and revenue projections for the first year of operation are expected to generate \$0.7 million in new revenue

RESOLUTION

WHEREAS, The Newark Rail Link MOS-1 project will provide light rail service between Newark Broad Street Station and Newark Penn Station; and

WHEREAS, NJ TRANSIT seeks to complete construction of the tunnel connecting the existing Newark City Subway to street-level at Center Street; and,

WHEREAS, this amendment will allow construction of the tunnel to address unanticipated site conditions; and,

WHEREAS, this amendment places relocation of electrical utilities under NJ TRANSIT's control to improve project schedule coordination and reliability;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to amend the contract with E. E. Cruz, Inc. of Holmdel, NJ for the construction of the Newark Rail Link cut and cover tunnel on the Newark City Subway under Mulberry Street in the City of Newark at an additional cost not to exceed \$1,400,000, plus five percent for contingencies, subject to the availability of funds for a total authorization to E. E. Cruz of \$23,032,725 plus five percent for contingencies.

**ITEM 0408-43: HUDSON INTERLOCKING: AMENDMENT TO DESIGN A
"POCKET TRACK"**

BENEFITS

The proposed design changes will improve the ride quality for customers on trains using Hudson Interlocking and replace Amtrak's maintenance track to be eliminated as part of the overall "pocket track" improvements. Specifically, the proposed modifications required by Amtrak include track realignment to allow track design speeds and replacement of a storage track for Amtrak's Maintenance of Way equipment.

The "pocket track" and the design changes associated with this authorization are part of a series of capital investments to improve rail service between Newark Penn Station and New York Penn Station. Currently, Raritan Valley Line customers must navigate two sets of stairs and the concourse level to transfer to New York-bound trains and PATH service on Track 1. During peak hours, it can take as much as five minutes for customers to move between platforms. The "pocket track" will allow most Raritan Valley Line trains to operate via Track 1, eliminating the transfer between platforms, improving customer convenience and reducing commute times.

The "pocket track" improvements will benefit other rail customers by mitigating potential train delays on the Northeast Corridor. Currently, Raritan Valley Line trains that use Track 1 must cross the entire Northeast Corridor west of Newark to return westbound on Track 5, an especially difficult move during the morning and evening rush hours. These trains frequently operate out of service to the Meadow Maintenance Complex and other rail yards to reverse direction. The "pocket track" will allow Raritan Valley Line trains to clear the Northeast Corridor main line tracks quickly and wait for a suitable gap in rail traffic to head westbound.

The original design services for the "pocket track" were procured with SYSTRA Consulting, Inc. as a contract amendment to the High Density Interlocking Signal (HDIS) project. This authorization will further amend that contract to modify the final design for Hudson Interlocking as described.

PURPOSE

Authorization of this contract amendment will allow recent design recommendations to be incorporated in the final design package for Hudson Interlocking.

ACTION (Capital Program Justification: Efficiencies)

Staff seeks authorization to amend the contract (No. 86007.9) with SYSTRA Consulting, Inc. of Bloomfield, NJ, to complete the final design for the "pocket track" at a cost not to exceed \$269,690, plus five percent for contingencies, for a total contract authorization of \$2,645,675.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

FISCAL IMPACTS

Requested Authorizations:	\$269,690 + 5% contingency, for a total contract authorization of \$2,645,675, divided as follows: \$1,070,675 ("Pocket Track" Design) \$1,575,000 (HDIS Design)
Total Project Cost:	\$27,000,000 ("pocket track")
Projected Date of Completion:	October 2004 (Design) March 2007 (Construction)
Anticipated Source of Funds:	FTA/Transportation Trust Fund
DBE Goal:	22%
Related/Future Authorizations:	Track Material Procurement (December 2004) Construction Contract (November 2005)
Impacts of Subsequent Operating Budgets:	To be determined during Final Design

RESOLUTION

WHEREAS, authorization of this amendment will incorporate modifications to the final contract design of Hudson Interlocking Phase II configuration, also known as the "pocket track"; and

WHEREAS, the "pocket track" will increase the number of Raritan Valley Line riders reaching Tracks 1 and 2 for a same platform transfer at Newark Penn Station to New York City-bound trains; and

WHEREAS, the "pocket track" will ease movement of trains across the Northeast Corridor and train delays will be reduced; and

WHEREAS, SYSTRA Consulting, Inc. is currently under contract to design Hudson Interlocking under the High Density Interlocking Signal project;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to amend the contract with SYSTRA Consulting, Inc. of Bloomfield, NJ, to complete the final design for the "pocket track" at a cost not to exceed \$269,690, plus five percent for contingencies, for a total contract authorization of \$2,645,675, subject to the availability of funds.

ITEM 0407-44: NJ TRANSIT GRANT PROGRAMS SUPPORTING COORDINATED LOCAL TRANSPORTATION FOR SENIOR CITIZENS, PERSONS WITH DISABILITIES, RURAL AND ECONOMICALLY DISADVANTAGED RESIDENTS

BENEFITS

Board authorization of the grant programs herein described will allow NJ TRANSIT to apply, contract and administer a variety of federal and state grant programs dedicated to the development of coordinated community based transportation services that benefit senior citizens, persons with disabilities, rural and small urban area residents and economically disadvantaged persons transitioning from welfare as well as special local transportation projects. The services funded through these grants provide non-emergency life enhancing transportation that include but are not limited to demand responsive and modified fixed-route services. NJ TRANSIT requires that grant subrecipients make every effort to coordinate services in order to maximize efficiency, and feed existing bus and rail services when possible. NJ TRANSIT also monitors subrecipients for compliance with relevant federal and state laws and regulations.

PURPOSE

NJ TRANSIT Service Planning and Development administers the state funded Senior Citizen and Disabled Resident Transportation Assistance Program, and four Federal programs funded under the Federal Transportation Administration (FTA); Elderly and Persons With Disabilities Program (Section 5310), Rural Transportation Program (Section 5311), the Rural Transit Assistance Program (RTAP) and the Jobs Access and Reverse Commute Program. In addition, from time to time local shuttle initiatives funded through a variety of federally funded sources including congressional earmarks, Congestion, Mitigation and Quality (CMAQ) 5307 and 5309, are applied for and administered by NJ TRANSIT on behalf of these local providers. These programs assist a variety of private non-profit organizations, all twenty-one counties, various municipalities, county improvement authorities and NJ TRANSIT in meeting the mobility needs of New Jersey's senior citizens, persons with disabilities, transportation disadvantaged and rural residents. Board authorization is sought to implement these programs for state fiscal year 2005. A description of each Program follows:

1) The Senior Citizen and Disabled Resident Transportation Assistance Program are funded from the Casino Revenue Tax Fund. Eighty-five percent of the annual appropriation is allocated by formula among the 21 counties for transportation for senior citizens and persons with disabilities. NJ TRANSIT is allocated the remaining 15 percent to provide administrative and compliance oversight, provide technical assistance to the counties, coordinate the program within and among the counties, and develop, provide and maintain those portions of capital improvements that afford accessibility to fixed route and other transit services.

The Governor's budget recommends that \$25,287,000 be appropriated for SFY2005 to the Senior Citizen and Disabled Resident Transportation Assistance Program. As mandated, 85 percent of the yearly appropriation, \$21,493,950 will be allocated to the counties by formula as set forth in Exhibit A. The 15 percent balance, \$3,793,050, will be allocated to bus and rail accessibility projects and overall program administrative costs. Under administrative costs,

technical assistance includes the awarding of grants to counties or the initiation of studies by NJ TRANSIT for planning efforts that foster coordination between counties and between counties and public transportation. The criteria used in selecting studies would be based upon the transferability of the project and the recipient would be obligated to participate in a workshop or panel presenting the project to their peers in the other counties.

2) Section 5311 of the Federal Transit Act provides capital, administrative and operating assistance for public transportation services in small urban and rural areas in New Jersey pursuant to a population-based formula. Board approval of the SFY2005 Program will allow 14 Section 5311 Projects to continue operation. Three additional designated rural areas are eligible to apply for funding. The local subrecipient may contract with private operators to provide services under this program.

The Section 5311 Program provides 80 percent federal funds for non-operating projects and 50 percent federal funds for project operating costs. Since the inception of the program in 1979, NJ TRANSIT has provided one-half of the matching funds (10 percent capital, 10 percent administration and 25 percent operating) for all Section 5311 projects. The grant subrecipients provide the remaining required match dollars. Up to 15 percent of the annual Federal allocation can be set aside by NJ TRANSIT to administer the program. These administrative funds are unmatched Federal funds. For federal fiscal year 2004 the FTA has made available \$1,757,590 under Section 5311. These funds along with funds from previously approved grants will constitute the state fiscal year program as shown in Exhibit B.

3) Through the Rural Transit Assistance Program (RTAP), NJ TRANSIT provides training and technical assistance for all small transit operators receiving federal funds including FTA Section 5311 and/or Section 5310 funding. Private operators under contract to funding recipients are also allowed to participate. The Program is sponsored 100 percent by the FTA under Section 5311. For federal fiscal year 2004 the FTA has made \$78,737 available under RTAP.

4) Section 5310 Program provides Federal funds to States for the purchase of vehicles and related equipment for private non-profit agencies and designated public bodies to provide transit services to senior citizens and persons with disabilities. The Federal funds available under this program can be used to pay up to 80 percent of the cost of vehicles. Since assuming administration of the program in 1979, NJ TRANSIT has purchased over 850 vehicles for non-profit organizations and designated coordinated public bodies in all 21 counties.

NJ TRANSIT received over one hundred applications from private non-profit organizations, municipalities and counties seeking one or more vehicles this year. These applications were reviewed and scored based upon specific grant criteria. The final agencies selected were then incorporated into a statewide grant application. For federal fiscal year 2004 the FTA has made \$2,573,478 available under Section 5310.

5) As part of New Jersey's WORK FIRST program a statewide collaborative effort resulted in the development of 21 county-based community transportation coordination plans. From that planning process, services were inventoried, gaps and duplication of services identified, needs of the WORK FIRST population quantified and alternative service proposals to meet those needs developed. It is anticipated that for federal fiscal year 2005 (FFY05), the FTA will make an additional \$5.5 million available to New Jersey under the JOBS ACCESS and REVERSE

COMMUTE grant program. Through a planning process initiated by the Metropolitan Planning Organizations (MPOs) applications for the FFY05 program will be solicited and reviewed. NJ TRANSIT will then prepare and submit a statewide application to the FTA for funds. A dollar for dollar match is required under this program. It is anticipated that match dollars will come from the New Jersey Department of Human Services as well as local county sources.

6) This year various local shuttle initiatives are funded at the local level. These grants are applied for and administered by NJ TRANSIT on behalf of the local provider. This year federal earmarks, CMAQ funded projects selected by MPOs and a South Orange Transit Village project all contained elements that will require the purchasing of capital equipment and/or the contracting for operating services. This year these local shuttle initiatives throughout the state will total \$5,114,708 from various federal funding sources.

ACTION (Justification: Expanding the Reach)

Staff seeks authorization to submit grants and execute all appropriate contracts to implement the following programs:

Authorize agreements as necessary to implement the State Fiscal Year (SFY) 2005 Senior Citizen and Disabled Resident Transportation Assistance Program as set forth in Exhibit A for a total program amount of \$25,287,000.

Adopt the SFY2005 Section 5311 Program and as set forth in Exhibit B; authorize all grant submittals and the execution of all contracts and agreements with sub-recipients as necessary to implement the SFY2005 Section 5311 Program up to \$4,710,758 of which \$1,119,221 is the NJ TRANSIT share.

Authorize execution of all contracts and agreements necessary to implement the Federal Fiscal Year (FFY) 2004 Rural Transit Assistance Program up to \$78,737 at no cost to NJ TRANSIT.

Authorize all grant submittals and the execution of all contracts and agreements necessary to implement the FFY04 Section 5310 Program at a cost not to exceed \$3,223,995 of which \$644,799 is the NJ TRANSIT share. A list of selected recipients is set forth in Exhibit C.

Authorize all grant submittals and the execution of all contracts and agreements necessary to implement the FTA FY05 Jobs Access and Reverse Commute Program at a cost not to exceed \$11,000,000 of which \$ 5,500,000 or 50% are federal funds. No NJ TRANSIT match is required in this program.

Authorize all grant submittals and the execution of all contracts and agreements necessary to implement the various federally funded special projects under earmarks, CMAQ and Transit Village programs under the FTA03/04 budget at a cost not to exceed \$5,114,708. No NJ TRANSIT hard match is required in this program.

Authorize the procurement of all vehicles and related equipment necessary to implement these programs from the various funding described herein at a cost not to exceed \$8,477,735.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS**Requested Authorization****Senior Citizen and Disabled Resident Transportation Assistance Program**

100% Casino Revenue Tax Fund - Total	\$25,287,000
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SFY2005 Section 5311 Program – Total	\$4,710,758
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Operating:

50% Federal Funds	\$2,160,475
25% NJ TRANSIT Operating Budget	\$1,080,240
25% Local Applicant (County)	\$1,080,240

Local Administration:

80% Federal Funds	\$200,617
10% NJ TRANSIT Capital Budget	\$ 25,078
10% Local Applicant (County)	\$ 25,078

Capital:

80% Federal Funds	\$111,224
10% NJ TRANSIT Capital Budget	\$ 13,903
10% Local Applicant (County)	\$ 13,903

Rural Transportation Assistance Program (RTAP)

100% Federal Funds (FFY04)	\$78,737
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Section 5310 Program

80% Federal Funds (FFY04)	\$2,579,198
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20% NJ TRANSIT Capital Budget	\$ 644,799
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Jobs Access and Reverse Commute Program

50% Federal Funds (FFY05)	\$5,500,000
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50% Local Match:

Local Match (including NJ Department of HS)	\$5,500,000
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Local Shuttle Initiatives

Local Shuttle Initiatives	\$5,114,708
Middlesex County/Monroe Township	\$ 396,012
Gloucester County Senior Buses	\$ 196,736

Montclair State University Round 2	\$ 687,582
South Orange Transit Village	\$ 720,000
CMAQ –TPA (Keep Middlesex Moving, TransOptions, Meadowlink)	\$ 678,978
CMAQ – DVRPC (Burlington County and SJTA)	\$1,301,000
CMAQ – SJTPO (Atlantic, Cape May)	\$ 580,000
CMAQ – SJTPO (Cumberland – Landis Avenue Shuttle)	\$ 554,400

Total Project Costs:	N/A
Projected Date of Completion:	December 31, 2005 for all Programs except June 30, 2005 for FTA Section 5311.
Anticipated Source of Funds:	Casino Revenue Funds, FTA'S Section 5310, 5311, RTAP and Jobs Access and Reverse Commute Programs, Federal Transit Earmarks, CMAQ, New Jersey Dept. of Human Services, NJ TRANSIT Operating and Capital Budget
DBE Goals/Participation:	Section 5310: Lowest bidder will be requested to make best reasonable effort. Section 5307, 5311 and Jobs Access – 10% goal
Related/Future Authorizations:	N/A
Impacts on Subsequent Operating Budgets:	Same or slight increase depending upon federal funds available under Section 5311.

RESOLUTION

WHEREAS, the Senior Citizen and Disabled Resident Transportation Assistance Act provides 100 percent State funding for the counties or their designees to provide community based transportation services, as well as for NJ TRANSIT to administer the program, to provide technical assistance to the counties and to develop, provide and maintain accessible improvements to fixed route systems; and

WHEREAS, Section 5311 of the Federal Transit Act provides 80 percent of the non-operating assistance and 50 percent of operating assistance, with NJ TRANSIT providing one-half of the local match, to improve public transit services in rural areas; and

WHEREAS, the FTA makes available, under Section 5311, additional funding through the Rural Transit Assistance Program (RTAP), which provides 100 percent of the funds for training and technical assistance to Section 5311 and Section 5310 recipients; and

WHEREAS, Section 5310 provides 80 percent of the purchase price, with NJ TRANSIT providing the 20 percent match, for vehicles which are purchased for private non-profit corporations and/or designated public bodies to transport senior and disabled residents; and

WHEREAS, the FTA will make available funds, under Jobs Access and Reverse Commute programs, which provides 50 percent of the funds for transit services that address the needs of low income and WORKFIRST NJ customers; and

WHEREAS, the FTA will make available funds, under CMAQ, congressional earmarks and the Transit Village program, which provide for both capital and operating funds for local community transit services that address the needs of a variety of transit dependent populations; and

WHEREAS, in order to implement some of these programs it will be necessary to purchase a variety of vehicle types in varying quantity is;

NOW, THEREFORE, BE IT RESOLVED that the State Fiscal Year (SFY) 2005 Budget for the Senior Citizen and Disabled Resident Transportation Program, as set forth in Exhibit A, is hereby adopted, and the Chairman or Executive Director is hereby authorized to execute, extend or modify contracts to implement the SFY2005 Program subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to submit any grant applications and execute all appropriate agreements, contracts, and take all other steps necessary to implement the SFY2005 Section 5311 program set forth in Exhibit B, including the expenditure of funds for the local match, subject to the availability of funds; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to execute all appropriate contracts and agreements to submit to the FTA the FFY04 Rural Transportation Assistance Program; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to execute all appropriate contracts and agreements and take all other steps to implement the FFY04 Section 5310 programs; and

BE IT FURTHER RESOLVED, that the Chairman or Executive Director is hereby authorized to submit any grant applications, and execute all appropriate agreements, contracts and take all other steps to implement the FTA FFY05 Jobs Access and Reverse Commute Program; and

BE IT FURTHER RESOLVED, that the Chairman or Executive Director is hereby authorized to submit any grant applications, and execute all appropriate agreements, contracts and take all other steps to implement local shuttle initiatives funded through FTA CMAQ, Congressional earmarks and South Orange Transit Village transportation projects; and

BE IT FURTHER RESOLVED, that the Chairman or Executive Director is hereby authorized to enter into any contracts to purchase vehicles and related equipment in order to implement any of the programs described herein, at a cost not to exceed \$8,477,735.

(NJT BOARD – 7/15/04)

EXHIBIT A

**SENIOR CITIZEN AND DISABLED RESIDENT
TRANSPORTATION ASSISTANCE PROGRAM**

<u>COUNTIES</u>	<u>FY'2004 ALLOCATION</u>	<u>FY'2005 ALLOCATION</u>
ATLANTIC	\$ 666,017	\$ 661,544
BERGEN	\$1,933,803	\$1,920,814
BURLINGTON	\$1,041,211	\$1,034,217
CAMDEN	\$1,222,495	\$1,214,283
CAPE MAY	\$ 436,995	\$ 434,060
CUMBERLAND	\$ 436,995	\$ 434,060
ESSEX	\$1,859,748	\$1,847,256
GLOUCESTER	\$ 579,011	\$ 575,122
HUDSON	\$1,371,654	\$1,362,440
HUNTERDON	\$ 436,995	\$ 434,060
MERCER	\$ 849,070	\$ 843,367
MIDDLESEX	\$1,783,733	\$1,771,752
MONMOUTH	\$1,494,756	\$1,484,716
MORRIS	\$1,099,587	\$1,092,201
OCEAN	\$1,933,803	\$1,920,814
PASSAIC	\$1,149,173	\$1,141,454
SALEM	\$ 436,995	\$ 434,060
SOMERSET	\$ 658,699	\$ 54,274
SUSSEX	\$ 436,995	\$ 434,060
UNION	\$1,374,569	\$1,365,336
WARREN	\$ 436,995	\$ 434,060
TOTAL COUNTIES	\$21,639,300	\$21,493,950
NJ TRANSIT	\$ 3,818,700	\$ 3,793,050
TOTAL	\$25,458,000	\$25,287,000

*100% State funds from the Casino Revenue Tax funds.

EXHIBIT B**RURAL TRANSPORTATION ASSISTANCE
SFY2005 SECTION 5311 PROGRAM**

	FEDERAL	STATE *	LOCAL *	TOTAL
<u>NORTHERN REGION</u>				
Morris County	\$228,099	\$114,050	\$114,050	\$456,199
Passaic County West Milford)	\$ 45,669	\$ 22,835	\$ 22,835	\$ 91,339
Sussex County	377,657	\$147,120	\$147,120	\$671,897
Warren County	\$175,431	\$ 87,716	\$ 87,716	\$350,863
<u>CENTRAL REGION</u>				
Hunterdon County	\$ 182,781	\$ 91,391	\$ 91,391	\$ 365,563
Mercer County 1.	\$ 56,096	\$ 28,048	\$ 28,048	\$ 112,192
Middlesex County 1.	\$ 18,034	\$ 9,017	\$ 9,017	\$ 36,068
Monmouth County	\$ 74,753	\$ 36,477	\$ 36,477	\$ 147,707
Ocean County	\$ 91,314	\$ 45,657	\$ 45,657	\$ 182,628
Somerset County	\$ 54,342	\$ 23,973	\$ 23,973	\$ 102,288
<u>SOUTHERN REGION</u>				
Atlantic County	\$ 313,904	\$ 123,581	\$ 123,581	\$ 561,066
Burlington County	\$ 300,097	\$ 127,766	\$ 127,766	\$ 555,629
Camden County	\$ 9,017	\$ 4,509	\$ 4,509	\$ 18,035
Cape May County	\$ 96,724	\$ 42,834	\$ 42,834	\$ 182,392
Cumberland County	\$ 233,398	\$ 106,747	\$ 106,747	\$ 446,892
Gloucester County	\$ 117,066	\$ 58,533	\$ 58,533	\$ 234,132
Salem County 1.	\$ 97,934	\$ 48,967	\$ 48,967	\$ 195,868
TOTAL	\$2,472,316	\$1,119,221	\$1,119,221	\$4,710,758

EXHIBIT B (Continued)

CATEGORY	FEDERAL	STATE *	LOCAL **	TOTAL
Operating	\$2,160,475	\$1,080,240	\$1,080,240	\$4,320,955
<u>Non-Operating</u>				
Administration	\$ 200,617	\$ 25,078	\$ 25,078	\$ 250,773
Capital	\$ 111,224	\$ 13,903	\$ 13,903	\$ 139,030
Total SFY 2005 Program	\$2,472,316	\$1,119,221	\$1,119,221	\$4,710,758

- *Provided by NJ Transit Capital and operating budgets
- ** Provided by local recipient.

1. Mercer, Middlesex and Salem Counties are currently an inactive project.

These requests for funding represents an applicant's annual request for new funding, funds available under an Intercity Bus Waiver set aside as required by law, previous contract balances rolled forward in anticipation of reprogramming and some unobligated balances yet to be applied to a specific project.

EXHIBIT C**SECTION 5310 SELECTED APPLICANTS FY04 GRANT**

<u>COUNTY</u>	<u>AGENCY</u>	<u>EQUIPMENT</u>
Atlantic	Caring, Inc.	Extended Minibus
Bergen	Borough of Little Ferry	Extended Minibus
	Christian Health Care Center	Minibus
Burlington	Burlington County	Extended Minibus
	Burlington County	Extended Minibus
Camden	Promise Alternative Care, Inc.	Minibus
	S.C.U.C.S.	Minibus
	S.C.U.C.S.	Minibus
Cape May	Jersey Cape Diagnostic Ctr.	Extended Van
Cumberland	Cumberland County	Extended Minibus
	Shirley Eves Development Center	Minivan
Essex	1 st Cerebral Palsy of New Jersey, Inc.	Extended Van
	Columbus Hospital	Minibus
	Northwest Essex Community Healthcare	Extended Minibus
	Partnerships for People, Inc.	Van
	Senior Care and Activities Center, Inc.	Minibus
	Township of Verona	Extended Van
Gloucester	Gloucester County	Minibus
Hudson	Christ Hospital Senior Transportation	Minibus
Hunterdon	Hunterdon County	Small Transit Bus
	Hunterdon County	Small Transit Bus
Mercer	Mercer County T.R.A.D.E.	Minibus
	St. Francis Medical Center	Minibus
Middlesex	Cerebral Palsy of Middlesex	Minibus
	County of Middlesex - AWATS	Small Transit Bus
Monmouth	County of Monmouth	Extended Minibus
	LADACIN Network	Minibus
Morris	ARC Morris County Chapter, NJ Inc.	Minibus
	Town of Dover	Minibus
	Town of Jefferson	Minibus
	New Jersey Fireman's Home	Replacement Securement Devices
Ocean	County of Ocean	Medium Transit Bus
	LADACIN Network	Minibus
	Long Beach Island Community Center	Van
	Manchester Township Sr. Outreach	Extended Van
Passaic	Christian Health Care Center	Minibus
	Coalition on AIDS in Passaic County, Inc.	Van
	County of Passaic	Extended Minibus
	Township of West Milford	Small Transit Bus
Salem	County of Salem	Extended Van
Somerset	County of Somerset	Minibus
	Midland Adult Services, Inc.	Van
Sussex	County of Sussex - SCTS	Extended Minibus
	County of Sussex - SCTS	Extended Minibus
Union	ARC of Union	Minibus
	Union County Paratransit	Minibus
Warren	Abilities of Northwest Jersey, Inc.	Extended Minibus
	County of Warren	Minibus
	County of Warren	Minibus

**ITEM 0407-45: MADISON STATION ACCESSIBILITY IMPROVEMENTS:
CONSTRUCTION CONTRACT AWARD**

BENEFIT

The proposed improvements at Madison Station will enhance rail service accessibility for persons with disabilities in compliance with the Americans with Disabilities Act (ADA). Madison Station serves approximately 1,200 riders per day and has been designated as a "key" station under NJ TRANSIT'S Commuter Rail Accessibility Plan. This Plan requires selected passenger facilities to be made accessible to persons with disabilities and sets timelines for their implementation.

PURPOSE

Authorization of this contract will allow for the construction of accessibility improvements at the Madison Station, including mini-high level platforms with canopies, lighting, and elevators in conformance with the requirements of the ADA.

In addition to the accessibility improvements, NJ TRANSIT will complete historic restoration work to the eastbound baggage room and westbound shelter house buildings as needed to mitigate impacts from installation of the elevators. Madison Station is listed on the State and National Registers of Historic Places. All proposed improvements were reviewed by the State Historic Preservation Office and meet the Secretary of the Interior Standards.

Finally, this authorization will allow conversion of the heating system from oil to gas and installation of a basement area fire sprinkler system as required by building code.

ACTION (Capital Program Justification: Mandate)

Staff seeks authorization to contract (No. 04-108) with the most responsive and responsible bidder for the construction of accessibility improvements at Madison Station on the Morris & Essex Lines at a cost not to exceed the budgeted amount, plus five percent for contingencies.

FISCAL IMPACTS

Requested Authorizations:	Not to exceed the budgeted amount, plus five percent for contingencies
Projected Date of Completion:	December 2005: Construction of ADA Improvements at Madison Station
Anticipated Source of Funds:	Transportation Trust Fund
DBE Goal:	10% SBE (Construction)
Related/Future Authorizations:	None
Impacts on Subsequent Operating Budgets:	Maintenance of (two) elevators - \$12,500/year

(NJT BOARD – 7/15/04)

RESOLUTION

WHEREAS, Madison Station serves 1,200 riders per day and is a transportation hub for southeastern Morris County; and

WHEREAS, NJ TRANSIT seeks to improve accessibility to its transportation services for all customers; and

WHEREAS, Madison Station was previously designated a “key” station for accessibility upgrades by NJ TRANSIT’S Commuter Rail Accessibility Plan; and

WHEREAS, NJ TRANSIT is required to make Madison Station accessible to persons with disabilities in compliance with the Americans with Disabilities Act (ADA) and historic preservation guidelines;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with the most responsive and responsible bidder for the construction of accessibility improvements at Madison Station on the Morris & Essex Lines at a cost not to exceed the budgeted amount, plus five percent for contingencies, subject to the availability of funds.

**ITEM 0407-46: COMPUTER HARDWARE/SOFTWARE: SOLE SOURCE
MAINTENANCE AND LICENSING AGREEMENT RENEWAL**

BENEFITS

In support of NJ TRANSIT's objective to maintain a state-of-good-repair, staff is recommending sole source maintenance agreements and required upgrades with providers of installed hardware and software whose maintenance or upgrades cannot be competitively procured. These firms are the Original Equipment Manufacturers (OEMS) or the only source of support for these systems.

PURPOSE

NJ TRANSIT utilizes a variety of computing equipment and software to process information. This equipment and software are necessary for the continued operation of services. The manufacturers of the hardware and software under proposal are the only firms capable of providing licensing and maintenance services for their products. In each case, the firm is the original equipment manufacturer (OEM) for the software/hardware or has acquired the rights to act as such. Hardware having multiple suppliers of maintenance has been excluded from this proposal and will be competitively procured as existing contracts expire.

Historically, hardware and software maintenance and licensing fees increase in price anywhere from five to 10 percent each year. For planning purposes, unless otherwise noted, five percent escalation will be utilized for the second and third year pricing of each product.

Software Maintenance will provide for:

- Program maintenance for all software modules including support for solving any software logic errors;
- Software enhancements periodically released by the vendor to provide for additional features;
- Telephone assistance for immediate correction of program problems with minimum interruption of end user service; and
- Services including consultation and educational credits associated with the vendors' software.

Hardware Maintenance will provide for:

- Correction of hardware failures either on-site or through remote services;
- Guaranteed response time to minimize end user downtime;

- High volume spare parts stored locally for quick access and error correction; and
- Hardware upgrades where necessary to accommodate technology upgrades.

ACTION (Justification: State of Good Repair)

Staff seeks authorization to initiate or renew sole source maintenance and licensing agreements with companies specified in the resolution for the hardware and software required to operate NJ TRANSIT's Information Systems at a total cost not to exceed \$3,453,529 for one-year contracts with two one-year renewals at a cost not to exceed \$7,528,087 for a total of \$10,981,616. Authorization is also sought to upgrade and purchase hardware/software services from these sole source suppliers at a one-time cost of \$1,785,000.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	\$10,996,616 (One year contract with two one-year renewals) and in addition; \$1,785,500 (Hardware/Software purchase and upgrade)
Projected Date of Completion:	June 2007
Anticipated Source of Funds:	FY 05, 06, 07 Operating Funds
DBE Goal:	N/A - Sole Source Procurement
Future/Related Authorization:	N/A
Impacts of Subsequent Operating Budgets:	FY 05 - \$4,063,529 FY 06 - \$4,067,264 FY 07 - \$4,650,823

RESOLUTION

WHEREAS, various software maintenance contracts and licensing agreements expire this year; and

WHEREAS, these contracts insure the continued operation of both the computers and software that support NJ TRANSIT's system applications; and

WHEREAS, these products are being fully utilized throughout NJ TRANSIT and demand for customer services and software upgrades continues; and

WHEREAS, NJ TRANSIT has attempted to identify other sources to provide these services and has found that the software is copyright protected; and

WHEREAS, the proposed vendors are the only vendors capable of providing these services;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to enter into contracts and renew two one-year options with the firms listed in Exhibit A for a total cost of \$10,981,616 and to upgrade and purchase hardware/software services from these sole source suppliers at an one-time cost of \$1,785,000.

EXHIBIT A

A one year sole source agreement with a two year option with IBM at a total cost not to exceed \$700,000 for the licensing of operating system software products; the first year beginning July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with HP Development Company (formerly Compaq Computer Corp) at a total cost not to exceed \$800,000 for the maintenance of software products; the first year beginning July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Software AG at a total cost not to exceed \$709,312 for the software maintenance of the data base management system, the first year beginning July 1, 2004 through June 30, 2007. Also, a one-time software upgrade at a cost not to exceed \$225,000;

A one year sole source agreement with a two year option with American Software Inc. at a total cost not to exceed \$189,500 for software maintenance of the material management system starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with GEAC Corporation at a total cost not to exceed \$433,702 for the software maintenance of the financial and human resource systems, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with KRONOS Corporation at a total cost not to exceed \$355,000 for the software maintenance of the time and attendance system and hardware maintenance of the time clocks, starting July 1, 2004 through June 30, 2007.

A one year sole source agreement with a two year option with Renaissance Systems Inc. at a total cost not to exceed \$137,180 for the software maintenance of the computer aided dispatch system as part of the bus statewide radio system project, starting July 1, 2004 through June 30, 2007. Also, a one-time software and services upgrade at a cost not to exceed \$450,000;

A one year sole source agreement with a two year option with Computer Associates Inc. at a total cost not to exceed \$204,850 for the licensing/maintenance of software products, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Metavera Solutions Inc. at a total cost not to exceed \$90,280 for the software maintenance for the transportation online payroll system, starting July 1, 2004 through June 30, 2007. Also, a one-time software and services upgrade at a cost not to exceed \$100,000;

A one year sole source agreement with a two year option with Oracle Corporation at a total cost not to exceed \$1,450,150 for the maintenance of software products, starting July 1,

2004 through June 30, 2007. Also, a one-time software and services upgrade at a cost not to exceed \$450,000;

A one year sole source agreement with a two year option with Bentley Systems Inc. at a total cost not to exceed \$111,600 for the maintenance of software products, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Intergraph Corporation at a total cost not to exceed \$110,655 for the maintenance of the geographical information system, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Attachmate Corp. at a total cost not to exceed \$220,700 for the maintenance of software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with PS Technology at a total cost not to exceed \$243,200 for the maintenance of software, starting July 1, 2004 through June 30, 2007. Also software and services upgrades at a cost not to exceed \$90,000;

A one year sole source agreement with a two year option with Maximus Inc. at a total cost not to exceed \$265,799 for the maintenance of the Rail Mechanical and Materials (MMS) system, Fleet Anywhere systems, and Rail Focus system¹ starting July 1, 2004 through June 30, 2007. Also software and services upgrades at a cost not to exceed \$70,000;

A one year sole source agreement with a two year option with Process Software Corporation at a total cost not to exceed \$87,200 for the maintenance of software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Network Associates (McAfee) at a total cost not to exceed \$50,000 for the maintenance of software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Trapeze Software (formerly Mantech) at a total cost not to exceed \$766,400 for the maintenance of the ATIS system, starting July 14, 2004 through July 15, 2007. Also, software and services upgrades at a cost not to exceed \$150,000;

A one year sole source agreement with a two year option with BEA Systems, Inc. at a total cost not to exceed \$88,270 for the maintenance of software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Checkpoint Software Technology Ltd. at a total cost not to exceed \$133,500 for the maintenance of software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Microsoft at a total cost not

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to exceed \$378,300 for the maintenance of software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with SYSTRA Consulting, Inc. at a total cost not to exceed \$450,000 for consulting services for the nodal network database, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Vosloh Systems Tech/Parsons Brinckerhoff at a total cost not to exceed \$240,000 for maintenance of the software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Parsons Brinckerhoff at a total cost not to exceed \$45,000 for maintenance of the software, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with Orbital Sciences at a total cost not to exceed \$415,000 for software support and enhancements, starting July 1, 2004 through June 30, 2007;

A one year sole source agreement with a two year option with SurfControl plc at a total cost not to exceed \$30,000 for the maintenance of software, starting July 1, 2006 through June 30, 2007;

A one year sole source agreement with a two year option with BrightMail, Inc., at a cost not to exceed \$78,000 for the maintenance of software, starting July 1, 2004 through June 30, 2007; Also, a one-time software and services upgrade at a cost not to exceed \$50,000;

A one year sole source agreement with a two year option with BigFix Inc. at a total cost not to exceed \$132,400 for the maintenance of software, starting January 27, 2005 through January 26, 2008;

A one year sole source agreement with a two year option with Viecore at a total cost not to exceed \$64,963 for the maintenance of the IVR system, starting July 1, 2004 through June 30, 2007. Also, software and service enhancements at a cost not to exceed \$50,813.

A one year sole source agreement with a two year option with GE Transportation Systems at a total cost not to exceed \$204,000 for the maintenance of hardware and software, starting July 1, 2004 through June 30, 2007.

A one year sole source agreement with a two year option with Nice Systems Inc. at a total cost not to exceed \$204,000 for the maintenance of hardware and software, starting July 1, 2004 through June 30, 2007.

A one year sole source agreement with a two one year option with iRail LLC. at a total cost not to exceed \$60,000 for the maintenance and hosting of NJ TRANSIT's electronic procurement system, starting July 1, 2004 through June 30, 2007.

A one year sole source agreement with a two one year option with Computerized Display Services at a total cost not to exceed \$ 507,553 for the maintenance of displays for Penn Station Newark, Atlantic City and Trenton Station, starting July 1, 2004 through June 30, 2007. Also, software and service enhancements at a cost not to exceed \$50,000.

A one year sole source agreement with a two one year option with Gough and Associates Inc. at a total cost not to exceed \$120,426 for the maintenance of displays for 7th Avenue Concourse at NY Penn Station, starting July 1, 2004 through June 30, 2007. Also, software and service enhancements at a cost not to exceed \$50,000.

A one year sole source agreement with a two one year option with ComNet Software Specilaists Inc. at a total cost not to exceed \$335,741 for the maintenance of displays for Newark Liberty International Airport starting July 1, 2004 through June 30, 2007. Also, software and service enhancements at a cost not to exceed \$50,000.

All contracts are subject to the availability of funds and the approval of subsequent operating budgets.

ITEM 0407-47: TRAIN MANAGEMENT AND CONTROL SOFTWARE UPGRADE**BENEFITS**

NJ TRANSIT's Train Management and Control (TMAC) software was designed to allow upgrades to fully maximize its capabilities. These upgrades will increase the system's functionality and improve the flow of information to customers by providing real time train information. Some of the benefits of the software upgrade will include centralizing the control of electric switch heaters at the Power Dispatching Center, providing real time train status information signage at several key stations, and expansion of the data feed from Amtrak to provide real time train information for passenger information signs along the Northeast Corridor.

PURPOSE

NJ TRANSIT holds licenses with ARINC, Inc. to run the TMAC software that is utilized at the Rail Operations Center to monitor and track the movements of our trains as well as control the power distribution and the remote operation of bridges. The TMAC system was designed to utilize the status of train movements to provide real time train information to customers via signs and verbal announcements. It also included features to help improve the monitoring and tracking of trains. The recommended software upgrades will enable NJ TRANSIT to maximize the utilization of the software for this effort and to improve the overall efficiency of rail operations.

ACTION (Justification: Customer Service and Business Efficiency)

Staff seeks authorization to enter into a procurement-by-exception contract for licensing and professional services to upgrade NJ TRANSIT's TMAC product with ARINC, Inc. of Annapolis, MD at a total cost not to exceed \$2,359,000 and to provide one year of maintenance and product support at a cost not to exceed \$240,000 for a total cost not to exceed \$2,599,000, plus five percent for contingencies, subject to the availability of funds.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	\$2,599,000 + 5% contingency
Total Project Cost:	\$2,599,000
Projected Date of Completion:	June 2005

Anticipated Source of Funds: FY05 Capital (90%) and Operating (10%)

DBE Goals: None

Related/Future Authorization: Annual maintenance contract

**Impacts of Subsequent
Operating Budgets:** \$240,000 annual cost for maintenance

RESOLUTION

WHEREAS, NJ TRANSIT's Rail Operations currently utilizes the Train Management and Control (TMAC) system to dispatch its trains, as well as control its power system; and

WHEREAS, TMAC was designed to improve overall operation of monitoring and tracking of trains as well as improving Customer Service Announcements; and

WHEREAS, the TMAC vendor, ARINC, Inc., offers to enhance its core functionality to maximize its utilization and provide timely Passenger Announcements;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman or Executive Director is authorized to enter into a procurement-by-exception contract for licensing and professional services to upgrade NJ TRANSIT's TMAC product with ARINC, Inc. of Annapolis, MD at a total cost not to exceed \$2,359,000 and to provide one year of maintenance and product support at a cost not to exceed \$240,000 for a total cost not to exceed \$2,599,000, plus five percent for contingencies, subject to the availability of funds.

**ITEM 0407-48: TRANSPORTATION ONLINE PAYROLL SYSTEM (TOPS)
REPLACEMENT PROJECT****BENEFITS**

Staff seeks authorization to allow the start-up of the Transportation Online Payroll System (TOPS) replacement project at 16 bus garages system-wide, in addition to the Headquarters, General Office Building (GOB) and Light Rail Facility. The new system will ensure proper scheduling and compensation of 3,450 operators (2,750 full-time, 700 part-time) as per the union agreements with NJ TRANSIT Bus Operations.

PURPOSE

Over the past 15 years, NJ TRANSIT Bus Operations has been using the legacy Transportation Online Payroll System (TOPS), to perform the daily operations at the bus garages. The functions currently performed by the system include operator scheduling, bidding, dispatch, rostering, work board management and timekeeping functions. The current system also incorporates the union contract terms, which are used to schedule the operator and calculate their daily/weekly pay hours. Such pay information is then sent to payroll for processing on a weekly basis.

The primary vendor responsible for development and maintenance of the system ceased operation with no notice in late calendar year 2000. Since then the current system is operating with a minimal support from a private third party vendor. If a system failure were to occur, it would be very difficult to bring the system back to its original state of operation. In addition to the above, there have been several bus operations contract ratifications since the system was initially implemented at NJ TRANSIT Bus Operations. Due to limited flexibility of the system, it has become harder over the years to implement such changes. As a result, independent databases and manual methods have been developed to perform functions with reference to such ratifications, therefore designating valuable resources and time towards the same.

Unlike the current system, the replacement system will be much more flexible, accurate and efficient in performing daily operations. It will also interface with other bus operations systems e.g. Vehicle Maintenance Information System (VMIS), Light Rail Maintenance System (LRMS), Operational Training System (OTR), Undercover ride system, email system, enabling data centralization and integration throughout Bus Operations. Also, it will be easier for the company to include the contract changes in the system, by reducing the number of independent databases and manual work required.

Also, as a part of this project, NJ TRANSIT will sign a maintenance and support agreement with the primary vendor to ensure the proper maintenance and support for the investment.

This item has been reviewed and recommended by the Board Administration Committee.

ACTION (Justification: Business Efficiency)

Staff seeks authorization to contract with the Versyss Transit Solutions, LLC, Providence, RI for the TOPS replacement project for the total project amount not to exceed \$2,927,798,

plus five percent for contingencies, subject to availability of funds and future capital and operating budgets.

FISCAL IMPACT

Requested Authorization: \$2,927,798 + 5% contingency

Total Project Cost: \$2,927,798 + 5% contingency

Projected Date of Completion: June 30, 2007

Anticipated source of funds: Transportation Trust Fund

DBE Goals: There are no DBE goals set for this project, due to the specialized services required to deliver the product. Some of the specialized tasks involved in the project are configuration of the system software, implementing the software at all bus operations locations as mentioned in the project RFP document and training the administrators, support personnel and users in operation of the system

Related/Future Authorization: N/A

Impacts on Subsequent Operating Budgets: None

RESOLUTION

WHEREAS, the existing system Transportation Online Payroll System (TOPS), has lost the support from the primary vendor and has minimal support from the third party vendor; and

WHEREAS, the current system is not user friendly and cannot be upgraded, thus making it difficult to implement the new contract changes and increasing probability of incorrectly scheduling and/or calculating the pay of the operators, resulting in possible contract violations; and

WHEREAS, following the completion of a competitive procurement process, Versyss Transit Solutions, LLC, was determined to be the highest ranked proposer;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to contract with Versyss Transit Solutions, LLC, of Providence, for the Transportation Online Payroll System (TOPS) replacement project, to provide the replacement system for the current NJ TRANSIT Bus Operations TOPS system, at a cost not to exceed \$2,927,798, plus five percent for contingencies, subject to the availability of funds and future operating budgets.

**ITEM 0407-49: HUDSON COUNTY, MIDDLESEX COUNTY, AND PLAINFIELD
LOCAL BUS SERVICE**

BENEFITS

These agreements will provide for the continued operation of bus service on eighteen local routes in the Hudson County, Middlesex County, and Plainfield areas for two-year periods from June 27, 2009 through June 25, 2011 (Hudson County), October 3, 2004 through September 30, 2006 (Middlesex County), and May 15, 2005 through May 19, 2007 (Plainfield), respectively, and the elimination of competing bus service on an interstate route operated by NJ TRANSIT in Hudson County.

PURPOSE

NJ TRANSIT is charged under its enabling legislation with providing a coherent public transportation system in the most efficient and effective manner, while encouraging the participation of private enterprise. Authorization will contribute to this objective and continue bus service in Hudson County, Middlesex County, and Plainfield areas, which staff has identified as appropriate service to be operated more economically by contracting for its performance. The carriers will comply with New Jersey's Conscientious Employee Protection Act.

Number 22 Hillside, LLC (an affiliate of Academy Lines, LLC) has satisfactorily provided bus service in Hudson County under contract with NJ TRANSIT since 1999. The carrier was selected as the most responsive proposer for the operation of Hudson County bus service as a result of a competitive procurement process conducted by NJ TRANSIT in 1999. In May 2004, the Board of Directors authorized NJ TRANSIT to enter into an agreement with Number 22 Hillside, LLC for the transfer to NJ TRANSIT of two local routes previously operated by the carrier under its own operating authority and for the extension of the existing agreement with Number 22 Hillside, LLC for the operation of Hudson County local bus service for a five-year period from June 27, 2004 through June 27, 2009.

Academy Express, LLC (an affiliate of Academy Lines, LLC) has satisfactorily provided bus service under contracts with NJ TRANSIT since 1999. NJ TRANSIT selected the carrier as the most responsive proposer for the operation of both the Middlesex County local bus service and the Plainfield local bus service as a result of competitive procurement processes conducted in 1999. Both of the Requests for Proposals (RFPs) issued at that time requested proposals from private motorbus carriers to provide local bus service for an initial contract period of three years and for two option periods of two years each. The RFPs required prospective carriers to provide a proposed price for both the base contract period and the first two-year option period which may be exercised solely at the discretion of NJ TRANSIT. Costs for the second two-year option period, should NJ TRANSIT choose to renew each contract further, were to be negotiated between NJ TRANSIT and the carrier. The first (priced) option period under these

contracts for local bus service will expire on October 2, 2004 (Middlesex County) and May 14, 2005 (Plainfield), respectively.

With the objectives of continuing bus service in Hudson County, Middlesex County, and Plainfield areas, and achieving efficiencies and economies, NJ TRANSIT staff has negotiated agreements with Number 22 Hillside, LLC and Academy Express, LLC that provide:

- ❖ A two-year extension of the existing agreement with Number 22 Hillside, LLC for the operation of Hudson County local bus service; and
- ❖ A two-year extension of the existing agreement with Academy Express, LLC for the operation of Middlesex County local bus service; and
- ❖ A two-year extension of the existing agreement with Academy Express, LLC for the operation of Plainfield local bus service; and
- ❖ Discontinuation of service by Number 22 Hillside, LLC on one interstate route, Hoboken – New York (Washington Street, Clinton Street, and Willow Avenue), currently operated by Number 22 Hillside, LLC under its own operating authority.

ACTION (Justification: Business Efficiencies)

Staff seeks authorization to enter into agreements with Number 22 Hillside, LLC and Academy Express, LLC of Hoboken, NJ for the discontinuation of service by Number 22 Hillside, LLC on one interstate route operated by the carrier under its own operating authority and for the extension of the existing agreements with Number 22 Hillside, LLC and Academy Express, LLC for the operation of local bus service in the Hudson County, Middlesex County, and Plainfield areas (Exhibit A), as follows:

- ❖ Extension of the agreement with Number 22 Hillside, LLC providing for the carrier to operate four local routes in the Hudson County area (Exhibit A) for a two-year period from June 27, 2009 through June 25, 2011 at a cost not to exceed \$13,458,350, plus five percent for contingencies; and
- ❖ Extension of the agreement with Academy Express, LLC providing for the carrier to operate seven local routes in the Middlesex County area (Exhibit A) for a two-year period from October 3, 2004 through September 30, 2006 at a cost not to exceed \$8,580,623, plus five percent for contingencies; and
- ❖ Extension of the agreement with Academy Express, LLC providing for the carrier to operate seven local routes in the Plainfield area (Exhibit A) for a two-year period from May 15, 2005 through May 19, 2007 at a cost not to exceed \$2,344,654, plus five percent for contingencies.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	\$24,383,627 (72 month operations), + 5% contingency
Total Project Cost:	N/A
Projected Date of Completion:	June 25, 2011
Anticipated Source of Funds:	Fiscal Years 2005 - 2011 Operating Budgets
DBE Goal/Participation:	Carrier is required to make a good faith effort to expend 5% of the value of the contract (excluding wages) on goods/services provided by Disadvantaged Business Enterprises
Related/Future Authorizations:	N/A
Impact on Subsequent Operating Budgets:	N/A

RESOLUTION

WHEREAS, at its April 1986 meeting the Board of Directors adopted a Contracting Out Policy to govern how the bus services provided by NJ TRANSIT might be contracted in an effort to reduce the cost of providing such services; and

WHEREAS, staff has determined that it is appropriate to provide local bus service in the Hudson County, Middlesex County, and Plainfield areas; and

WHEREAS, in June 1999 the Board of Directors authorized a contract with Number 22 Hillside, LLC (formerly Number 22 Hillside Corp.) for the operation of local bus service in Hudson County for a period of 59 months ending on June 26, 2004 and in May 2004 the Board authorized the extension of this contract for an additional five years; and

WHEREAS, Number 22 Hillside, LLC has satisfactorily provided bus service in Hudson County under contract with NJ TRANSIT since 1999; and

WHEREAS, in September 1999 the Board of Directors authorized a contract with Academy Express, LLC for the operation of local bus service in Middlesex County for a period of 60 months ending on October 2, 2004; and

WHEREAS, in November 1999 the Board of Directors authorized a contract with Academy Express, LLC for the operation of local bus service in Plainfield for a period of 64 months ending on May 14, 2005; and

WHEREAS, Academy Express, LLC has satisfactorily provided bus service under contract with NJ TRANSIT since 1999; and

WHEREAS, Number 22 Hillside, LLC owns and operates an interstate route from Hudson County which it is willing to discontinue; and

WHEREAS, this route competes with an existing service in Hudson County operated by NJ TRANSIT and the discontinuation of service by the carrier on this route will contribute to the development of a coherent public transportation system in the most efficient and effective manner;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to execute all agreements and to take all other actions necessary and consistent with this Board action to enter into an agreement with Number 22 Hillside, LLC for the discontinuation of its Hoboken – New York (Washington Street, Clinton Street, and Willow Avenue) interstate route; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to execute all agreements and to take all other actions necessary and consistent with this Board action to extend the existing agreement with Number 22 Hillside, LLC for the operation of Hudson County local bus service, as set forth in Exhibit A, for a two-year period from June 27, 2009 through June 25, 2011 at a cost not to exceed \$13,458,350, plus five percent for contingencies; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to execute all agreements and to take all other actions necessary and consistent with this Board action to extend the existing agreement with Academy Express, LLC for the operation of Middlesex County local bus service, as set forth in Exhibit A, for a two-year period from October 3, 2004 through September 30, 2006 at a cost not to exceed \$8,580,623, plus five percent for contingencies; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is hereby authorized to execute all agreements and to take all other actions necessary and consistent with this Board action to extend the existing agreement with Academy Express, LLC for the operation of Plainfield local bus service, as set forth in Exhibit A, for the two-year period from May 15, 2005 through May 19, 2007 at a cost not to exceed \$2,344,654, plus five percent for contingencies; and

BE IT FURTHER RESOLVED that funding of these agreements shall be subject to the availability of funds and Board approval of NJ TRANSIT's subsequent operating budgets; and

BE IT FURTHER RESOLVED that the carrier shall comply, as a condition of the present or future contracts and continued receipt of funds, with New Jersey's Conscientious Employee Protection Act.

**HUDSON COUNTY, MIDDLESEX COUNTY,
AND PLAINFIELD LOCAL BUS SERVICE**

CONTRACT SERVICE - LIST OF ROUTES

<u>Route No.</u>	<u>Description</u>	<u>Days Operated</u>
<u>Hudson County Local Service</u>		
2	Secaucus – Journal Square	Monday - Sunday
22	Hillside (Cliffside Park - Hoboken)	Monday – Sunday
23	North Bergen – Hoboken	Monday – Friday
88	North Boulevard – Journal Square	Monday – Sunday
<u>Middlesex County Local Service</u>		
810	New Brunswick – Woodbridge Center	Monday – Sunday
811	New Brunswick – South River	Monday – Friday
813	Perth Amboy – Middlesex County College	Monday – Saturday
814	North Brunswick – New Brunswick – Middlesex County College	Monday – Saturday
815	New Brunswick – East Brunswick – Woodbridge Center	Monday – Sunday
817	Perth Amboy – Campbell's Junction	Monday – Saturday
818	New Brunswick – Old Bridge	Monday – Sunday
<u>Plainfield Local Service</u>		
801 – 805	Metro Park Loop	Monday – Friday
819	Piscataway – Plainfield – Metuchen – Middlesex Mall	Monday – Saturday
822	Plainfield – North Plainfield	Monday – Saturday

ITEM 0407-50: HOBOKEN TERMINAL - LEASE OF PARKING LOT

BENEFITS

NJ TRANSIT will receive fixed annual rent starting at \$405,000 in year one and increasing to \$455,000 in year five for a total of \$2,145,000 in rent in a five-year period. Tenant occupancy provides non-farebox revenue to NJ TRANSIT and a convenient service to mass transit customers using the terminal.

PURPOSE

This authorization allows NJ TRANSIT to enter into a lease with Parking Systems Plus, Inc., 28 Fourth Street, Valley Stream, NY D/B/A Parking Systems for the operation of a parking lot located at Hudson Street and Hudson Place, Hoboken, NJ (also known as the Hoboken Terminal). The lease period is for two years with three one-year renewal extensions.

ACTION (Business Efficiencies)

Staff seeks authorization to enter into a lease with Parking Systems Plus, Inc. D/B/A Parking Systems of Valley Stream, NY for the operation of a parking lot at Hoboken Terminal for two years with one-year renewal extensions at the following rents:

Year 1	\$405,000
Year 2	\$415,000
Year 3	\$430,000
Year 4	\$440,000
Year 5	\$455,000

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

FISCAL IMPACTS

Requested Authorization:	Lease of a parking lot at located at Hudson Street and Hudson Place, Hoboken, NJ for rents as specified above
Total Project Cost:	N/A
Projected Date of Completion:	Leases to be executed by August 2004
Anticipated Source of Funds:	N/A

DBE Goal:	N/A
Related/Future Authorizations:	N/A

Impacts of Subsequent Operating Budgets:	\$2,145,00 in revenue over five years
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RESOLUTION

WHEREAS, the New Jersey Public Transportation Act of 1979, P.L. 1979, c. 150 authorizes NJ TRANSIT to lease, purchase and sell, or otherwise dispose of, on terms which NJ TRANSIT may prescribe, real and personal property; and

WHEREAS, NJ TRANSIT own Hoboken Terminal; and

WHEREAS, Parking Systems Plus, Inc. D/B/A Parking Systems was selected as the new tenant for the parking lot at Hoboken Terminal through a competitive process;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to enter into a lease with Parking Systems Plus, Inc. D/B/A Parking Systems of Valley Stream, NY for the operation of a parking lot at Hoboken Terminal for two years with three one-year renewal extensions at Year 1 - \$405,000, Year 2 - \$415,000, Year 3 - \$430,000, Year 4 - \$440,000, Year 5 - \$455,000 for a total of \$2,145,000 in rent in a five-year period.

ITEM 04-7-51: NORTHEAST CORRIDOR/MAIN LINE: CONSTRUCTION SERVICES

BENEFIT

The proposed construction services will improve service reliability and security on the Northeast Corridor and Main Line as well as customer comfort and convenience at Secaucus Junction.

Recent rail infrastructure improvements on the Northeast Corridor and Main Line included installation of the High Density Interlocking & Signal (HDIS) System on the Northeast Corridor and expansion of both rail lines from two tracks to four tracks with associated interlockings. Currently, Amtrak's and NJ TRANSIT's Communications and Signaling personnel are located temporarily in leased facilities away from the right-of-way. Under this contract, space at Secaucus Junction will be finished to house these personnel on the right-of-way. This will provide for more efficient use of work forces and improve response time, thus improving service reliability for customers and eliminating the cost of leasing space for this purpose at another location.

The contract also includes the finishing of space at Secaucus Junction to provide for required police force activities in accordance with code requirements.

Finally, the contract includes windscreens, canopy extensions, and additional shelter space to improve customer comfort during severe inclement weather.

PURPOSE

Authorization of this contract will continue to support the goal of improving service reliability, security, and customer service. The scope of the work includes building space within Secaucus Junction for NJ TRANSIT and Amtrak Communications and Signaling (C&S) personnel, space for NJ TRANSIT Police, and enhanced weather protection for customers at exterior stairways and bus waiting areas.

To address current and future passenger rail capacity needs between Newark and New York City, several new tracks including specialized switches (e.g., turnouts) were constructed on the Northeast Corridor and Main Line. These switches allow trains to move from one track to another while maintaining appropriate speed, and are fully integrated with the communications and signaling system. The reliable performance of this infrastructure is necessary to ensure the daily flow of train traffic between Newark and New York City and Hoboken. Construction of the Crew Quarters for Communications and Signaling Department personnel will locate these crews at the heart of this complex system. Similarly, police will be located at this critical junction of railroad lines.

The scope-of-work of the contract also includes building improvements to better protect customers from inclement weather where they enter the station or exit to the train platforms. Windscreens will be erected in the bus waiting area located on the exterior of the station at ground level. Additionally, the terrace-level located at the station entrance will be further enclosed by glass panels around the outer perimeter of the terrace.

ACTION (Capital Program Justification: System Expansion)

Staff seeks authorization to contract (No. 04–118) with the lowest, responsive bidder for the construction of Crew Quarters, expansion of the Station's Security Office Area and to construct additional customer improvements at the Frank R. Lautenberg Rail Station at Secaucus Junction at a cost not to exceed the budgeted amount plus five percent for contingencies.

FISCAL IMPACTS

Requested Authorization:	Not to exceed the budgeted amount + 5% contingency
Projected Date of Completion:	May 2005
Anticipated Source of Funds:	NJ Turnpike Authority Agreement, FTA
DBE Goals/Participation:	17% Goal
Future/Related Authorizations:	None
Impacts on Subsequent Operating Budgets:	\$10,000 per year

RESOLUTION

WHEREAS, NJ TRANSIT has opened a major public transit improvement known as the Frank R. Lautenberg Rail Station at Secaucus Junction in the Hackensack Meadowlands area of New Jersey; and

WHEREAS, construction of the facility required addition of new tracks and associated interlockings along the Northeast Corridor and Main Lines to facilitate rail operations; and

WHEREAS, due to the expanded network of tracks serving the facility, having dedicated railroad personnel at the station will provide for more efficient use of work forces and improve response time; and

WHEREAS, finishing of the security area at the station in accordance with code requirements will provide space for police force activities; and

WHEREAS, construction of additional station improvements will provide greater comfort for customers during severe inclement weather;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to contract (No. 04-118) with the lowest responsive bidder for the construction of Crew Quarters, expansion of the station's Security Office area and construction of additional customer improvements at the Frank R. Lautenberg Rail Station at Secaucus Junction at a cost not to exceed the budgeted amount plus five percent for contingencies, subject to the availability of funds.

ITEM 0407-52: HUDSON-BERGEN LIGHT RAIL MOS-2: PROPERTY ACQUISITION INCREASE IN AUTHORIZATION

BENEFIT

The proposed increase in authorization for property acquisition for Hudson-Bergen Light Rail MOS-2 is required to comply with the provisions of a Court Order entered by the Superior Court of New Jersey concerning NJ TRANSIT vs. the Estate of Anthony D'Amelio and the Estate of Salvatore D'Amelio et al. This authorization will provide additional funds for acquisition of remaining properties authorized by the Board in May 1999.

PURPOSE

The acquisition of Block 752, Lot 1C in the City of Jersey City and Block 35, Lot 4.2 in the City of Hoboken, both in Hudson County, is necessary for the construction and operation of the Hudson-Bergen Light Rail MOS-2. The Board previously approved acquiring these properties along with others in May 1999 at a cost of \$3,000,000 plus three percent for closing costs.

In November 2002, NJ TRANSIT filed a condemnation action to acquire the aforementioned parcels. January 24, 2003, the Superior Court of New Jersey issued an Order for Judgment and Appointment of Commissioners that stipulates, "If the amount of the commissioners' award exceeds the amount of money previously placed on deposit by the plaintiff, then plaintiff NJ TRANSIT shall deposit with the Superior Court additional funds to increase its deposit to the full amount of the commissioners' award, irrespective of whether any party may appeal the commissioners' award, within 60 days of the filing of the commissioners' report."

On May 19, 2004, the Commissioners awarded \$1,732,500 for the property, plus interest as required by statute. On June 8, 2004, NJ TRANSIT received the interest calculations. Both parties have appealed the commissioners' award. NJ TRANSIT deposited \$280,000 with the court in November 2002. The authorized budget is not adequate to satisfy the court order and an increase in the amount of \$1,025,131 is required for the D'Amelio parcels. Furthermore, an additional \$1,560,000 is required to purchase the remaining properties.

ACTION (Capital Program Justification: System Expansion)

Staff seeks authorization to increase the Board authorized budget of \$3,000,000 plus three percent for closing costs (\$3,090,000) in the amount of \$2,585,131 for the acquisition of certain properties required by the Hudson-Bergen Light Rail MOS-2. The total authorization for these properties will be \$5,675,131.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

FISCAL IMPACTS

Requested Authorization:	This Authorization - \$ 525,131 (Court order) This Authorization - \$2,060,000 (Other properties) Total Authorization - \$5,675,131
Total Project Cost:	\$1,215,400,000
Projected Date of Completion:	December 2005 - MOS-2
Anticipated Source of Funds:	Transportation Trust Fund/FTA Grants/ EDA Bond Financing
DBE Goal:	N/A
Related/Future Authorization:	Authorizations to settle condemnation actions.
Impacts on Subsequent Operating Budget:	N/A

RESOLUTION

WHEREAS, the New Jersey Public Transportation Act of 1979, P.L. 1979, c. 150, authorizes NJ TRANSIT to lease, purchase and sell or otherwise dispose of, on terms, which NJ TRANSIT may prescribe, real and personal property; and

WHEREAS, in May 1999, the NJ TRANSIT Board authorized the acquisition of certain properties required for the Hudson-Bergen Light Rail MOS-2 including the D'Amelios' property, for the combined total cost of \$3,000,000 plus three percent for closing costs; and

WHEREAS, the Court Order entered by the Superior Court of New Jersey stipulates that NJ TRANSIT shall deposit with the Superior Court additional funds to increase its deposit to the full amount of the Commissioners' award irrespective of whether any party may appeal the Commissioners' award within 60 days of the filing of the Commissioners' award; and

WHEREAS, the Court Order entered by the Superior Court on January 24, 2003 requires NJ TRANSIT to pay an additional \$1,025,131 in addition to the amount previously authorized; and

WHEREAS, an additional amount of \$1,560,000 is required to purchase the remaining properties;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman or Executive Director is hereby authorized to increase the authorization to purchase certain properties required by the Hudson-Bergen Light Rail MOS-2 in the amount of \$2,585,131. The total authorization for these properties will be \$5,675,131, subject to the availability of funds.

ITEM 0407-53: RIVER LINE: OPERATIONS & MAINTENANCE TECHNICAL ASSISTANCE/PROJECT MANAGEMENT

BENEFITS

The proposed contract with Booz Allen & Hamilton, Inc. of McLean, VA will provide contract management, technical support and litigation support for the River LINE as it transitions from a construction project to an operating light rail system. Booz Allen & Hamilton, Inc. has provided these services to NJ TRANSIT since 1996 as a subcontractor to DMJM+Harris.

This procurement-by-exception is necessary to ensure that NJ TRANSIT is supported by a firm experienced with remaining project issues, rolling stock maintenance, and can support pending litigation.

PURPOSE

The consortium of Daniel, Mann, Johnson & Mendenhall (now DMJM+Harris) and Booz Allen & Hamilton, Inc. was selected in 1996 to provide consultant services for the planning, design, and contract management of the Burlington-Camden-Gloucester Transit System (now River LINE). The NJ TRANSIT Board of Directors has periodically authorized additional funding for these services with the current general management assistance and engineering consultant (GMAEC) contract set to expire December 2004.

NJ TRANSIT will require the services of Booz Allen & Hamilton, Inc. for contract management, technical support and litigation support beyond termination of the overall GMAEC contract. These support services will include audit of maintenance routines on rolling stock and systems infrastructure, assistance resolving engineering issues that arise during the first year of operation with respect to vehicles, signal infrastructure, and communication systems and close-out of the design-build contract.

ACTION (Capital Program Justification: New System Expansion)

Staff seeks authorization to enter into a one-year procurement-by-exception contract with Booz Allen & Hamilton, Inc. of McLean, VA in the amount \$1,603,457 to provide professional services and support as the Project Management Assistance Consultant for the River LINE. These services generally include contract management, technical support and litigation support through August 2005.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

FISCAL IMPACT

Requested Authorization:	\$1,603,457
Total Project Cost:	\$1,036,519,811 (Design-Build)
Projected Date of Completion:	August 2005
Anticipated Source of Funds:	Transportation Trust Fund Operating
DBE Goal:	3% (Actual)
Related/Future Authorizations:	None
Impacts on Subsequent Operating Budgets:	None

RESOLUTION

WHEREAS, the River LINE opened for revenue service in March 2004 and has transitioned from a construction project to an operating light rail system; and

WHEREAS, NJ TRANSIT seeks to oversee operation of the light rail system, administer the Operations and Maintenance contract, enforce warranty contract provisions, and respond to pending litigation; and

WHEREAS, continuity of project knowledge is essential during this transition period; and

WHEREAS, Booz Allen & Hamilton, Inc., subcontractor to DMJM+Harris, has provided project management assistance for the River LINE, including contract management, technical support, and litigation support; and

WHEREAS, NJ TRANSIT seeks to continue the services of Booz Allen & Hamilton as the Project Management Assistance Consultant through August 2005;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to enter into a one-year procurement-by-exception contract with Booz Allen & Hamilton, Inc. of McLean, VA, in the amount of \$1,603,457 for the provision of project management assistance services in connection with NJ TRANSIT's River LINE light rail project through August 2005, subject to the availability of funds.

(NJT BOARD – 7/15/04)

CONSENT CALENDAR

**ITEM 0407-54: NEWARK PENN STATION PLATFORM IMPROVEMENT PROGRAM -
PRELIMINARY ENGINEERING, FINAL DESIGN AND
CONSTRUCTION ASSISTANCE SERVICES CONTRACT AWARD**

BENEFITS

Newark Penn Station is the busiest railroad station in New Jersey offering access to downtown Newark and transfer opportunities to bus, commuter rail, light rail and Port Authority Trans-Hudson rail services.

This authorization is for the development of 30 percent preliminary design. Authorization for final design, construction and construction assistance will be requested in the future.

PURPOSE

Inspection of the facility, which opened in 1935, has revealed the need for extensive repair and restoration of the station's five platforms. Also included in the improvement program is the replacement or rehabilitation of roof drainage systems, canopy roof, ductwork, walls, windows, doors, passenger waiting areas, signage, lighting and brickwork. In June 2004, the Board authorized improvement to the undertrack drainage at Newark Penn Station and work will be initiated in July 2004. Because the station is listed on the State and National Register of Historic Places, all improvements must maintain the historic character of the station.

Authorization of this contract will advance the Newark Penn Station Platform Improvement Program that will prevent the station platforms from further deterioration, improve the appearance and functionality of passenger boarding areas and preserve the historic character of the station.

ACTION (Capital Program Justification: State of Good Repair)

Staff seeks authorization to contract (No. 04-101) with Clough, Harbour & Associates of Parsippany, NJ for the development of a Newark Penn Station platform improvement program and 30 percent preliminary design at a cost not to exceed \$800,000 plus five percent for contingencies.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

FISCAL IMPACTS

Requested Authorization: \$800,000 + 5% contingency

Total Project Cost: TBD

Projected Date of Completion:	2005 (Preliminary Engineering)
Anticipated Source of Funds:	Transportation Trust Fund
DBE Goal:	20% Goal
Future Related Authorizations:	\$1,000,000 final design platform E Future design costs for platform segments and construction costs will be developed during this phase
Impacts on Subsequent Operating Budgets:	Will minimize future facility repair costs

RESOLUTION

WHEREAS, NJ TRANSIT seeks to improve its transportation facilities and maintain them in a state of good repair; and

WHEREAS, the existing Newark Penn Station platforms, drainage systems, canopy, roof, ductwork, walls, windows, doors, passenger waiting areas, signage, lighting and brickwork have deteriorated and require repair or replacement; and

WHEREAS, this contract will provide 30 percent design for the station restoration; and

WHEREAS, the Newark Penn Station Improvement Program will maintain the historic character of the station; and

WHEREAS, following the completion of a competitive procurement process Clough Harbour & Associates was determined to be the highest ranked proposer;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to contract with Clough Harbour & Associates of Parsippany, NJ for the development of a Newark Penn Station platform improvement program and 30 percent preliminary design at a cost not to exceed \$800,000, plus five percent for contingencies subject to the availability of funds.

**ITEM 0407-55: REVISION OF NJ TRANSIT DRUG- AND ALCOHOL-FREE
WORKPLACE POLICY****BENEFITS**

In addition to addressing the issues surrounding drug and alcohol use and abuse in the workplace, NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy must conform to the requirements of the United States Department of Transportation and its regulatory agencies (i.e., the Federal Transit Administration (FTA), the Federal Railroad Administration (FRA) and the Federal Motor Carrier Safety Administration (FMCSA), as well as all applicable regulations promulgated by the State of New Jersey. NJ TRANSIT's policy has conformed to these requirements since it was first issued in 1989.

PURPOSE

Authorization of the adoption of the revised version of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy, attached hereto as Exhibit A, will permit this policy to be disseminated to NJ TRANSIT's employees, in the manner prescribed in the Federal Regulations, prior to its proposed August 16, 2004 effective date. It will further ensure that all actions taken by NJ TRANSIT to address drug and alcohol use and abuse problems in the workplace are consistent with current regulations and guidance from the FTA and the FRA.

ACTION (Justification: Compliance with Federal Regulations; System and Passenger Safety)

Staff seeks authorization to adopt a revised Drug- and Alcohol-Free Workplace Policy, effective August 16, 2004, for dissemination to all NJ TRANSIT employees in such a manner that proof of employee receipt can be recorded and retained.

This item has been reviewed and recommended by the Board Administration Committee.

FISCAL IMPACTS

Requested Authorization:	Approval of revised NJ TRANSIT Drug- and Alcohol-Free Workplace Policy
Anticipated Source of Funds:	N/A
Project Date of Completion:	N/A
DBE Goal:	N/A

RESOLUTION

WHEREAS, the United States Department of Transportation and its regulatory agencies, the Federal Transit Administration, the Federal Railroad Administration and the Federal Motor Carrier Safety Administration, have mandated regulations requiring workplace drug and alcohol testing programs; and

WHEREAS, the United States Department of Transportation and the aforementioned agencies require employers to provide a policy to their employees outlining the procedures and regulations to be followed in maintaining a drug- and alcohol-free workplace; and

WHEREAS, NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy issued in March 1999 must be revised to conform to the requirements of the Federal Transit Administration;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is hereby authorized to adopt the revised Drug- and Alcohol-Free Workplace Policy, effective August 16, 2004, and that the Executive Director is hereby authorized to direct that the revised Drug- and Alcohol-Free Workplace Policy be disseminated to all NJ TRANSIT employees in such a manner that proof of employee receipt can be recorded and retained.

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EXHIBIT A

 TRANSIT CORPORATE-WIDE POLICY		NUMBER 3.25	EFFECTIVE DATE 06/01/04
		SUPERSEDES 3.25 03/18/99	
MANUAL Human Resources	SOURCE Human Resources	KEY SUBJECT Drug and Alcohol Abuse	
TITLE DRUG- AND ALCOHOL-FREE WORKPLACE POLICY			
APPLIES TO All NJ TRANSIT employees not covered by Policies No. 3.25A, 3.25B and 3.25C.		APPROVAL(S)	

Where the use of gender specific pronouns would have led to very awkward sentences, we have used the masculine pronoun. This use should be considered to refer to both genders.

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I. PURPOSE

This document outlines NJ TRANSIT's policy to achieve a drug- and alcohol-free workplace. The purpose of this policy is to ensure that NJ TRANSIT operates in the safest and most efficient manner possible, and to promote the safety and welfare of our employees and customers by creating a drug- and alcohol-free workplace and ensuring that our employees are free from the effects of drugs and alcohol.

This document outlines those requirements of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy which are applicable to NJ TRANSIT employees not covered by Policies 3.25A, 3.25B or 3.25C.

II. NJ TRANSIT'S DRUG- AND ALCOHOL-FREE WORKPLACE PROGRAM

NJ TRANSIT's goal to achieve a drug- and alcohol-free workplace shall be accomplished through the implementation of a comprehensive anti-drug and alcohol program based on deterrence, detection, assistance and enforcement. The program objectives in support of this goal are to prevent drug and alcohol abuse, to assist employees who seek help, to detect drug and alcohol abuse and to enforce NJ TRANSIT's policy.

The above objectives shall be accomplished by:

- Providing educational material that explains the requirements of NJ TRANSIT's policy and procedures
- Educating employees about the impact that drug and alcohol use, both on and off the job, can have on job performance, health and safety
- Offering an employee assistance program and encouraging affected employees to seek help voluntarily as well as encouraging referral of employees for such assistance before job performance deteriorates
- Training for supervisors to detect the signs and symptoms of drug and alcohol abuse
- Screening employees for drugs and alcohol during their employment with NJ TRANSIT, and
- Enforcing NJ TRANSIT's drug- and alcohol-free workplace policy and imposing discipline when prevention and deterrence fails.

III. DEFINITIONS

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

- An individual dies; or
- An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- One or more of the vehicles involved incur(s) disabling damage* as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.

** Disabling damage is damage that 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*

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temporarily at the scene of the occurrence without special tools or parts; tire disablement without other damage even if no spare tire is available; or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.

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

Alcohol – The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration – The alcohol in a volume of breath expressed in terms of gram alcohol per 210 liters of breath as indicated by a breath test, or the alcohol as measured by grams of alcohol per 100 ml. of blood.

Alcohol Use – The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

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

Confirmation (or Confirmatory) Test – In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. In alcohol testing, a second test, following a screening test with a result of 0.020 or greater, which provides quantitative data of alcohol concentration.

Controlled Substance – Defined by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR 1301-1316). It also includes illicit drugs, drugs that are required to be distributed only by a medical practitioner's prescription or other authorization, and certain preparations for which distribution is documented through over-the-counter sales.

Covered Employee – For purposes of this policy, an NJ TRANST employee not subject to the provisions of Policies 3.25A, 3.25B or 3.25C.

Criminal Drug Statute – A federal or state criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

Designated Employer Representative (DER) – An employee authorized by the employer to initiate immediate action(s) to remove employees from duty and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer. The DER for NJ TRANSIT is the senior management official responsible for Medical Services or his designate.

Diluted Specimen – A specimen is considered diluted if the creatinine concentration is less than 20 mg/dl, but not less than 2 mg/dl, and the specific gravity is less than 1.003.

Drug – Any substance (other than alcohol) that has known mind- or function-altering effect on a human subject, specifically including any psychoactive substance and including, but not limited to, controlled substances.

Drug and Alcohol Testing Technician (DATT) – A licensed medical professional or medical technologist or technician who is provided instruction for specimen collection consistent with 49 CFR Part 40 and who performs the collection and certifies completion as required therein; or a person who has successfully completed training as a collector consistent with the requirements of 49 CFR Part 40. (NJ TRANSIT's

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collection site person will generally be referred to as a DATT. However, "DATT", "collector" and "collection site person" have the same meaning for purposes of this policy.)

Employee – An individual designated as subject to drug and/or alcohol testing under this policy. "Employee", "individual", "individual to be tested" and "donor" have the same meaning for purposes of this policy.

Invalid Test – In drug testing, a drug test that has been declared invalid by a Medical Review Officer. It is neither a verified positive nor negative test, and includes a specimen rejected for testing by a laboratory. In alcohol testing, a test that is deemed invalid under the criteria found in 49 CFR Part 40.267 or 269. It is neither a positive nor a negative test. NJ TRANSIT has elected to apply the same guidelines to employees covered by this policy.

Medical Review Officer (MRO) – An MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to review and interpret individuals' confirmed positive drug test results from the laboratory together with their medical histories and any other relevant biomedical information to determine if there is evidence of prohibited drug use. Information regarding NJ TRANSIT's MRO's can be found in Exhibit 1 hereto.

Positive Alcohol Test – A confirmation test with an alcohol concentration result of 0.040 or greater.

Possess – To have on one's person or in one's personal effects or under one's control.

Prohibited Drug – Marijuana, cocaine, opiates, amphetamines or phencyclidine.

Rail Accident/Incident – An accident or incident, including a personal injury, reportable to the Federal Railroad Administration under 49 CFR Part 225.

Refusal to Submit to a Test – Failure to provide adequate breath for alcohol testing or a urine or blood specimen for drug testing, as required, without a valid medical explanation, after an employee has received notice of the requirement to be tested in accordance with the provisions of this policy or engaging in conduct that clearly obstructs the testing process.

Split Specimen – In drug testing, a part of the urine specimen that is sent to the certified laboratory shown in Exhibit 1 and retained unopened, and which is transported to a second laboratory if the employee requests that it be tested following a verified positive test or a verified adulterated or substituted test result of the primary specimen.

Subject to Duty – Any time period an employee is required to be available to report for duty.

Substance Abuse Professional (SAP) – A licensed physician (Medical Doctor or Doctor of Osteopathy), or a 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), with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.

Substituted Specimen or Test – A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine (i.e., a creatinine concentration less than 5 mg/dl and specific gravity less than or equal to 1.001 or greater than or equal to 1.020).

Supervisor or Supervisory Employee – An officer, special agent or other employee, whether or not directly employed by NJ TRANSIT, who is responsible for supervising or monitoring the conduct or performance of one or more NJ TRANSIT employees.

Validity Testing – Specimen validity testing is the evaluation of a 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.

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Vehicle – An automobile, truck or van.

Verified Negative Drug Test Result – A drug test result reviewed by an MRO and determined not to be evidence of use of a prohibited drug.

Verified Positive Drug Test Result – A drug test result reviewed by an MRO and determined to be evidence of use of a prohibited drug.

Workplace – Any location, including but not limited to, equipment, garages, depots, terminals, stations, offices, vehicles, buses, trolleys or trains, whether or not owned, leased or operated by NJ TRANSIT, where NJ TRANSIT business is conducted or where NJ TRANSIT job duties are performed.

IV. PREEMPTION OF STATE AND LOCAL LAWS

- A. Federal regulations upon which this policy is primarily based preempt any state or local law, rule, regulation or order when:
1. Compliance with both the state or local requirement and any requirement of federal regulations is not possible; or
 2. Compliance with the state or local requirement is an obstacle to accomplishing and executing any requirement of the regulations.
- B. However, the regulations do not preempt any provisions of state criminal law that impose sanctions for reckless conduct leading to loss of life, injury or damage to property.

V. POLICY SCOPE AND APPLICATION

- A. It is the policy of NJ TRANSIT to comply with the requirements of the Drug-Free Workplace Act of 1988 and any other applicable federal or state laws and regulations.
- B. If any section of this policy is invalidated as contrary to any law, the remaining sections shall remain in full force and effect.
- C. The provisions of this policy shall be subject to any limitations or requirements imposed by federal or state law. Moreover, any employment action taken by NJ TRANSIT due to violation of this policy shall be taken in accordance with the procedures contained in any applicable labor agreement.
- D. This document is a statement of NJ TRANSIT's current official policy and as such supersedes all prior drug and alcohol policy statements, directives and memoranda of NJ TRANSIT.
- E. As a condition of employment, this policy applies to all NJ TRANSIT employees except as noted otherwise herein or as found in Policies 3.25A, 3.25B and 3.25C. NJ TRANSIT management will ensure that this policy is implemented uniformly throughout the agency.

VI. EMPLOYEES SUBJECT TO TESTING

All employees not covered under Policies 3.25A, 3.25B or 3.25C are subject to the requirements of this policy and will be tested for drugs and/or alcohol in the circumstances described herein.

VII. STANDARDS OF CONDUCT**A. Prohibited Behavior**

As a condition of employment, all NJ TRANSIT employees are prohibited from:

1. Being impaired by or under the influence of a drug or alcohol while subject to, reporting for,

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or on duty; while in the workplace; while in recognizable NJ TRANSIT uniform; while operating any NJ TRANSIT vehicle at any time; or while conducting business for or representing NJ TRANSIT.

2. Using a drug at any time, whether on or off duty, except as permitted by Sections VII-C and VII-D ("Use of Prescription Drugs" and "Use of Over-the-Counter Medications").
3. Unlawfully possessing, distributing, dispensing or manufacturing a controlled substance at any time.
4. Using alcohol for whichever is the lesser of the following periods: within four (4) hours prior to reporting for duty; after receiving a call or notice to report for duty; or within four (4) hours prior to performing job duties.
5. Possessing, distributing or using alcohol while reporting for or on duty; while in the workplace; or while in recognizable NJ TRANSIT uniform.
6. Using alcohol for eight (8) hours following an accident or until he has undergone a post-accident test, whichever occurs first.

A violation of any of the above prohibitions is a dischargeable offense.

B. On-call Employees

An employee may acknowledge the use of alcohol and his inability to perform his job at the time he is called to report to duty. If an employee has acknowledged the use of alcohol but claims the ability to perform his job, the employee shall be required to take an alcohol test.

C. Use of Prescription Drugs

1. NJ TRANSIT will allow the use of a drug specifically prescribed for an employee by his physician provided:
 - a. The employee has described his assigned duties to the physician at the time the drug is prescribed; and
 - b. With knowledge of those duties and on the basis of the available medical history, the physician has made a good faith judgment that the use of the drug(s) at the prescribed dosage level(s) is consistent with the safe performance of the employee's duties; and
 - c. The drug is in its original container when it is in the employee's possession while in the workplace, clearly labeled with the employee's name, the name of the drug and the physician's Federal Drug Enforcement Administration number; and
 - d. The drug is used at the dosage prescribed; and
 - e. In the event that the employee is being treated by more than one medical practitioner, at least one treating medical practitioner has been informed of all medications authorized or prescribed and has determined that the use of all medications in combination is consistent with the safe performance of the employee's duties; and
 - f. The employee observes any restrictions imposed with all medications authorized or prescribed, or combinations of medications authorized or prescribed.
2. NJ TRANSIT requires that the use of a prescription drug be legitimate. An individual must, in

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addition to proving his compliance with the requirements set forth above, provide Medical Services with a valid current prescription or the drug in its original container as required in subsection c above, and a statement signed by the prescribing physician indicating the physician's and the employee's compliance with subsections 1a, 1b and, if applicable, 1e and 1f above. This must be submitted within 48 hours of a request by the MRO.

3. If NJ TRANSIT's MRO determines, upon review of a test reported positive by the laboratory, that there was legitimate use of a prescribed drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

D. Use of Over-the-Counter Medications

1. NJ TRANSIT recognizes that use of over-the-counter (OTC) medications may compromise an employee's ability to function properly in his position, as does the use of prescribed medication. To ensure safety in the workplace, employees are required to exercise caution when using any medication. Employees are required to do the following.
 - Observe any restrictions printed on the OTC medication
 - Use the medication according to the recommended dose
 - Consult a physician or a pharmacist for possible interactions of the OTC medication with other medication being consumed
 - Obtain clearance for use of the OTC medication from the physician, pharmacist or Medical Services.
2. If NJ TRANSIT's MRO determines upon review of a test reported positive by the laboratory that there was legitimate use of an OTC drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

E. Notification to NJ TRANSIT of Charges and Convictions of Criminal Drug Statutes

1. All NJ TRANSIT employees must notify their immediate supervisor, in writing, within five (5) calendar days of being formally charged with a violation, and/or conviction (which includes a plea of nolo contendere), of any criminal drug statute.
2. Conviction of any criminal drug statute or failure to comply in a timely manner with the above notice requirements is a dischargeable offense.

F. Cooperation and Compliance with Collection and Testing

1. Each employee required to be tested for drugs and/or alcohol pursuant to this policy must provide complete, valid, undiluted, unadulterated breath and/or urine and/or blood specimens as requested; supply the information necessary to identify the specimens (i.e., complete paperwork and initial specimen); and otherwise cooperate with collection and testing procedures.
2. If it is required by a collection site (e.g., hospital for post-accident testing), an individual required to participate in body fluid testing shall immediately evidence consent to the taking of specimens, their release for toxicological analysis, and release of the test results to NJ TRANSIT's MRO by promptly executing a consent form. The individual is not required to execute any document waiving rights that he would otherwise have against NJ TRANSIT and any such waiver is void. The individual may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen, or to indemnify any person for the negligence of others.

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3. Refusal to cooperate is a dischargeable offense in accordance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy. Any applicant for a position for which preemployment testing is required who refuses to cooperate with such testing will not be hired.

G. Behavior that Constitutes a Refusal to Cooperate

Behavior that constitutes a refusal to cooperate with testing includes, but is not limited to, the following.

1. Failure to appear for a test within a reasonable time, as determined by the employer, after being directed to do so by the employer.
2. Failure to remain at the testing site until the testing process is complete.
3. Failure to remain readily available for drug and/or alcohol testing following an accident or incident until tests have been conducted and/or specimens have been collected, without regard to any subsequent provision of specimens.
4. Tampering with a specimen including:
 - o Substitution of specimen
 - o Dilution of specimen
 - o Adulteration of specimen
 - o Tampering with testing equipment in order to prevent a valid test
5. Refusal to take the test.
6. Refusal to cooperate with testing procedures as required by federal regulations.
7. Failure to provide a sufficient quantity of breath or urine without a valid medical explanation.
8. Refusing to be examined or to comply with any medical requirements to explain why a specimen was not provided in a shy lung or bladder situation.
9. Refusing to remove outer clothing (including but not limited to coveralls, jackets, coats, hats and sweaters) and refusing to empty pockets and display items to the collector.
10. Refusal to permit monitoring or observation of a collection when such monitoring or observation is required under federal regulation and/or NJ TRANSIT policy.

VIII. ENFORCEMENT

A. Responsive Action

Any employee, who either (1) refuses to cooperate with collection and testing, (2) provides an adulterated or substituted sample, (3) is the subject of a verified positive drug test, or (4) is the subject of a confirmed positive alcohol test will be immediately removed from duty.

No employee whose test result indicates an alcohol concentration of 0.020 or greater, but less than 0.040, may perform or continue to perform his job duties until the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the administration of the test.

Any employee whose test result indicates an alcohol concentration of 0.040 or greater will be taken out of service and referred to EAP for a first offense, except in the case of a positive result on a reasonable suspicion test or a post-accident test where it has been determined by NJ TRANSIT that the employee was at fault.

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The employee shall be advised by an NJ TRANSIT Employee Assistance Program SAP of the resources available to evaluate and resolve problems associated with drug and/or alcohol misuse. The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with drug and/or alcohol misuse. This referral and the subsequent evaluation by the SAP shall not affect NJ TRANSIT's right to assess discipline up to and including discharge for any violation of this policy.

Any final applicant whose post-offer medical examination reveals a history of substance abuse may be referred to an NJ TRANSIT SAP for evaluation. However, final applicants with a history of substance abuse within the past five years must be referred for an evaluation by an NJ TRANSIT SAP. Each individual will be evaluated on a case-by-case basis. The individual will be asked to voluntarily consent to follow-up testing, if this evaluation suggests that such testing would be appropriate. The SAP shall determine the nature, frequency and duration of any such voluntary follow-up testing.

B. Consequences of a Violation of Policy

1. NJ TRANSIT considers the following as dischargeable offenses:
 - a. Producing a verified positive drug test or confirmed positive alcohol test (subject to right of mandatory Employee Assistance Program participation described in Section X-C below)
 - b. Violation of any of the prohibited behaviors described in Section VII-A above
 - c. Failure to timely notify one's supervisor of a formal charge, or conviction, of violation of a criminal drug statute
 - d. Conviction of violation of a criminal drug statute
 - e. Refusal to cooperate with collection or testing requirements
 - f. Failure to cooperate with and successfully complete EAP requirements (including after care) recommended by NJ TRANSIT's SAP's.
2. In all cases where an employee is suspected or found to be in possession of, selling or distributing a controlled substance while on duty or in the workplace, the matter will be referred to the appropriate law enforcement agency.

IX. DRUG AND ALCOHOL TESTS

A. Periodic Medical Examinations (Physicals)

Periodic physicals by NJ TRANSIT's Medical Services Department are available to employees who are required to have such examinations. Voluntary physicals are also available to non-agreement employees who meet certain qualifying criteria. Employees who request such examinations will be required to sign a form reflecting their consent to drug and alcohol tests as part of the examination.

B. Reasonable Suspicion Testing

1. An employee is required to submit to an alcohol and/or drug test when a supervisor has reasonable suspicion, based on specific contemporaneous observations concerning the employee's appearance, behavior, speech or body odors, to believe the employee has engaged in any of the behaviors prohibited by this policy concerning the use of alcohol and/or drugs.

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2. Reasonable suspicion testing shall be subject to the following limitations and conditions:

- a. When the suspicion is only of drug use, a urine test shall be performed; when the suspicion is only of alcohol use, a breath test shall be performed; when the suspicion is not specific to either drug or alcohol use, both a urine and a breath test shall be performed.
- b. A supervisor who makes the determination of reasonable suspicion must be trained in detecting the signs and symptoms of drug use and alcohol misuse. A supervisor who makes the determination that reasonable suspicion of alcohol use exists may not conduct the breath alcohol test on that employee. A direct supervisor of an employee shall not serve as the DATT for a drug test of that employee.
- c. No employee may be required to participate in alcohol or drug testing after the expiration of an eight (8) hour period from the time of the observations providing reasonable suspicion. In the case of a drug test, the eight (8) hour requirement is satisfied if the employee has been delivered to the collection site (where the collector is present) and the request has been made to commence collection of the urine specimen within that period.
- d. If an alcohol test is not administered within two (2) hours following the determination that the test should be conducted, the supervisor shall prepare and maintain on file a written record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the determination, the supervisor shall cease attempts to have the test administered and shall state in the record the reasons it was not administered.
- e. In all cases where an employee is required to be tested based upon reasonable suspicion, a written report setting forth the facts upon which the reasonable suspicion is based shall be completed and signed by the supervisor.
- f. An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
- g. Any employee who tests positive for drugs or alcohol on a reasonable suspicion test will be discharged.

C. Post-Accident Testing

Testing for drugs and alcohol is required following an "accident" or a "Rail accident/incident", as defined in Section III above and meeting the criteria below, unless an employee's performance can be discounted completely as a causative or contributing factor in the accident.

1. Fatal Accident

Whenever there is an accident involving a loss of human life and a supervisory employee of NJ TRANSIT has a reasonable belief, based on specific facts, that the acts or omissions of an employee who was on duty in the vehicle at the time of the accident contributed to the occurrence or severity of the accident, that employee must be tested for drugs and alcohol. Employees not in the vehicle at the time of the accident, but whose acts or omissions could have contributed to the accident, as determined by an NJ TRANSIT supervisor using the best information available at the time of the accident, must also be tested for drugs and alcohol.

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2. Non-Fatal Accident

An employee on duty in the vehicle at the time of the accident must be tested for drugs and alcohol, if any individual is taken to a medical treatment facility or any of the vehicles involved in the accident is towed from the scene and a supervisory employee of NJ TRANSIT has a reasonable belief, based on specific facts, that the employee's acts or omissions contributed to the accident's occurrence or severity. Employees not in the vehicle, but whose acts or omissions could have contributed to the accident, as determined by an NJ TRANSIT supervisor using the best information available at the time of the accident, must also be tested for drugs and alcohol.

3. Rail Accident/Incident

An employee who has been involved in a Rail accident/incident will be tested for drugs and alcohol when a supervisory employee of NJ TRANSIT Rail Operations has a reasonable belief, based on specific facts, that the employee's acts or omissions contributed to the accident/incident's occurrence or severity.

4. Time Limitations and Conditions

- a. An employee shall be tested for drugs within 32 hours following an accident. Testing following a Rail accident/incident shall be conducted promptly following the observations or events upon which the testing decision is based and before the employee is released from duty under the normal procedures of the railroad. (An employee who is subject to testing following a Rail accident/incident and who has been transported to receive medical care is not released from duty for purposes of this paragraph).
- b. An alcohol test must be performed promptly after the accident. If a test is not administered within two (2) hours following the accident, the supervisor must still attempt to insure the administration of the test, but shall prepare and maintain on file a written record stating the reason(s) the test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the accident, the supervisor shall cease attempts to have the test administered and shall prepare and maintain a record giving the reasons why the test was not promptly administered.
- c. An employee who is subject to post-accident testing and who fails to remain readily available for such testing, including failing to contact his supervisor and/or the NJ TRANSIT representative at the location, or who leaves the scene of the accident prior to submission to such test, shall be deemed to have refused to cooperate with testing.
- d. The requirement to test for drugs and alcohol following an accident shall in no way delay necessary medical attention for injured people or prohibit an employee from leaving the scene of an accident in order to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
- e. A written report setting forth the facts upon which the post-accident testing is based shall be completed and signed by the supervisor in all cases where an employee is required to be tested under the post-accident criteria.
- f. An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
- g. Any employee who tests positive for drugs or alcohol on a post-accident test where it is determined by NJ TRANSIT that the employee was at fault will be discharged.

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D. <u>Return-to-Duty Testing</u> 1. Testing negative on a return-to-duty drug and/or alcohol test is required of an employee prior to his being approved to return to duty from any of the following events. a. Discipline resulting from a positive drug or alcohol test result b. Discipline resulting from violation of any of the Standards of Conduct set forth in Section VI c. Returning to duty following a refusal to cooperate or tampering with, adulterating or substituting a specimen d. Successful completion of NJ TRANSIT's EAP whether under voluntary or mandatory participation. 2. An NJ TRANSIT SAP may require that an employee be administered a return-to-duty drug test even if the original infraction or substance abuse involved alcohol. Conversely, the SAP can require that an employee be administered a return-to-duty alcohol test even if the original infraction or substance abuse involved drugs. 3. Before a return-to-duty test is performed, an employee shall be evaluated by an NJ TRANSIT SAP to insure that the employee has followed the counseling and treatment recommendations. 4. An employee must have a verified negative drug test result or an alcohol test result of less than 0.020 to return to duty. If a drug and/or alcohol return-to-duty test result is canceled, the employee shall be required to submit to and pass another drug and/or alcohol test. 5. A mandatory EAP participant who tests positive on a return-to-duty test will be discharged in accordance with NJ TRANSIT's policy. E. <u>Unannounced Follow-Up Testing</u> 1. An employee returned to duty under any of the conditions described in Section D above shall continue in any program of counseling or treatment recommended by the SAP and shall also be subject to unannounced follow-up drug and/or alcohol testing. 2. Employees who successfully complete the NJ TRANSIT voluntary or mandatory EAP will be subject to a program of unannounced follow-up testing for at least 12 months, but not more than 60 months, from the date of the employee's return to duty. The frequency, duration and nature of the follow-up testing shall be determined by NJ TRANSIT's SAP, but it shall consist of a minimum of six (6) tests in the first 12 months after the employee's return to duty. Employees who are subject to follow-up testing must cooperate with testing or be subject to disciplinary action as outlined in Section VIII-B(1). 3. An employee who participates in an NJ TRANSIT mandatory EAP and who tests positive on any unannounced follow-up test will be discharged. A voluntary EAP participant who tests positive will be offered the opportunity to enter EAP on a mandatory basis as authorized by Section X-C below. 4. In accordance with NJ TRANSIT policy, an employee shall be subject to unannounced follow-up testing if the employee's primary drug specimen tests positive but the split specimen result is negative. In such a case, the employee shall be returned to duty and subject to unannounced follow-up testing during the next 90 days.			

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X. EMPLOYEE ASSISTANCE

A. NJ TRANSIT's Employee Assistance Program (EAP)

1. It is the policy of NJ TRANSIT to encourage employees to voluntarily seek help prior to being discovered to be in violation of this policy. NJ TRANSIT provides EAP services for any employee troubled by alcohol or drug problems. EAP is an assessment, referral and rehabilitation program through which SAP's, provided by or through referral by NJ TRANSIT, counsel and treat employees affected by substance abuse problems. The SAP's also monitor the progress of employees in recovery and assist them in managing these problems that may affect job performance.
2. Employees entering EAP will be evaluated by a qualified NJ TRANSIT SAP/EAP counselor. The counselor will determine if the employee is affected by a psychological or physical dependence upon alcohol or drugs or by any other identifiable and treatable mental or physical disorder involving the use of alcohol or drugs.
3. Employees shall not be permitted to participate in the EAP more than twice for drug and/or alcohol problems under this and any previous policy, unless the third participation is voluntary and begins at least 10 years after the completion of the most recent previous participation.
4. The amount of time an employee will be excused from duty for EAP participation shall not exceed 90 calendar days per treatment unless the SAP/EAP counselor indicates further treatment is required. Employees entering EAP under voluntary or mandatory participation will be entitled to receive any sick pay, health benefits or vacation time to which they are entitled, provided that they continue to comply with the EAP-recommended treatment. After the expiration of earned sick time and/or available vacation time, the balance of any time off required to complete primary treatment and gain manageability over the substance abuse problem will be granted through an unpaid leave of absence. The absence, whether paid or unpaid, will be counted against any leave allowance for which the employee is eligible under the Family and Medical Leave Act.
5. NJ TRANSIT shall not offer the voluntary EAP option in a case where the seeking of assistance, referral or report is made in anticipation of, or with the effect of, anticipating the imminent and probable detection by a supervisory employee of a policy violation.
6. All treatment records will be held in confidence, with management being simply told that the employee remains medically not qualified for duty.
7. Employees who enter EAP, either voluntarily or mandatorily, must abide by and with the treatment plan. Employees who refuse to cooperate with EAP or who fail to successfully complete the program will be discharged from NJ TRANSIT.

B. Voluntary EAP Participation

1. NJ TRANSIT's EAP is open to all employees on a voluntary and confidential basis. It affords employees affected by alcohol or drug use problems the opportunity to maintain an employment relationship with NJ TRANSIT while seeking help before the employee has engaged in conduct deemed by NJ TRANSIT sufficient to warrant discipline. The employee may voluntarily seek assistance through NJ TRANSIT for treatment of the problem or be referred for such assistance by a supervisor, another employee or a representative of the employee's union.
2. An employee who enters EAP voluntarily will not be disciplined on account of any admission that he has previously engaged in any prohibited behavior set forth in this policy, or on account of his entry into EAP.

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C. Mandatory EAP Participation

1. An employee shall be eligible for mandatory EAP participation if he has not previously had a positive drug or alcohol test or been determined to have failed to cooperate with drug or alcohol collection or testing procedures (including adulterating, substituting or tampering with a specimen) and he tests positive for drugs or alcohol in any of the following circumstances:
 - a. A test upon transfer into a safety-sensitive or covered service position, or upon reinstatement in such a position
 - b. A test conducted as part of a periodic medical examination
 - c. A post-accident test where it is determined by NJ TRANSIT that the employee was not at fault
 - d. A random unannounced test
 - e. A return-to-duty test
 - f. An unannounced follow-up test.
2. If, after any applicable hearing procedure, an employee described in Section C-1 above is determined to have violated NJ TRANSIT's policy, the employee shall be discharged unless he agrees to enter EAP and successfully complete any recommended course of treatment. If the employee agrees to enter EAP, he shall be suspended without pay for 30 calendar days. The suspension shall be served concurrently with the employee's EAP participation.
3. An employee who has already participated twice in NJ TRANSIT's EAP for drug and/or alcohol problems shall not be offered a third opportunity under this section, but shall be discharged.
4. An employee who has previously had a positive drug or alcohol test or previously been determined to have refused to cooperate with collection or testing shall be discharged in accordance with NJ TRANSIT's policy.
5. Positive drug and/or alcohol tests under all prior versions of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy shall be considered previous positive tests for purposes of this section.

D. EAP Return to Work Requirements

1. Employees must cooperate with and successfully complete any treatment recommended by the SAP, including any treatment plan for the period after they are returned to duty.
2. Any SAP referral and subsequent handling, including counseling and treatment, is treated as confidential, except confidentiality is deemed waived if:
 - a. The employee at any time refuses to cooperate in a recommended course of counseling or treatment; or
 - b. The employee is subsequently involved in a disciplinary offense and, after an investigation, it is determined that the employee violated any drug and/or alcohol prohibitions.

XI. DRUG TESTING PROCEDURES

A. Drugs Tested

Urine specimens shall be tested for the following drugs or their metabolites: marijuana, cocaine,

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opiates (i.e., morphine, codeine), phencyclidine (PCP) and amphetamines (i.e., methamphetamine).

B. Preparation for Collection

NJ TRANSIT and its certified drug-testing laboratory shall maintain clear and well-documented procedures for the collection, shipment and accessioning of urine specimens. Collection procedures shall include:

1. Use of a clean, single-use collection cup or collection container(s) that is securely wrapped until filled with the specimen; and
2. Use of a tamper-evident sealing system for specimen bottles; and
3. Use of a standard Drug Testing Custody and Control Form (CCF); and
4. Use of a shipping container in which specimens and associated paperwork can be placed.

NJ TRANSIT will provide written procedures, instructions and training on the collection process to certified collectors.

C. Specimen Collection

1. Urine specimens shall only be collected by certified collectors.
2. A person with direct management or supervisory responsibility over the employee to be tested, or a co-worker of the employee to be tested, may not serve as the collector for that employee's urine test.
3. Urine specimens shall only be collected at secure, designated collection sites which have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage and shipping or transportation of specimens to a certified drug testing laboratory.
4. Precautions shall be taken by the collector to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine bottle and on the CCF can identify the individual from whom the specimen was collected.
5. Upon notification of testing, individuals are required to remain available until the completion of the collection process. Individuals are required to provide at least 45 ml of urine under the split sample method of collection described below. If the individual is unable to provide at least 45 ml, the DATT shall instruct the individual that he may drink a maximum of 40 ounces of fluids over the course of three hours. The individual shall again attempt to provide a complete specimen. If the individual fails for any reason to provide 45 ml of urine within three hours, the test shall be discontinued and the DATT shall direct the individual to report to Medical Services for an evaluation by the MRO. The MRO may direct the employee to another physician with expertise in the appropriate medical discipline to determine if the employee's failure to provide a sufficient specimen is valid or constitutes a refusal to cooperate with a drug test. Based on this medical evaluation, the MRO or designated physician shall report their conclusions in writing to NJ TRANSIT's DER.
6. If an individual refuses to cooperate with the collection process, the DATT must inform the appropriate supervisor and document the non-cooperation on the CCF.
7. The chain of custody block of the CCF shall be properly executed by the DATT upon receipt of a specimen. Handling and transportation of specimens from one authorized individual or place to another, including handling at the laboratory, shall always be accomplished through chain of custody procedures. However, since specimens are sealed in packages that would indicate any tampering during transit to the laboratory and because couriers, express

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carriers and postal service personnel do not have access to the CCF, such personnel need not document chain of custody during transit.

8. Specimens shall be placed in containers designed to minimize the possibility of damage during shipment to the laboratory and shall be securely sealed to eliminate the possibility of undetected tampering.
9. In any case where an employee has sustained a personal injury and is subject to drug testing, necessary medical treatment shall be accorded priority over the provision of body fluid specimens. No employee who is unable to urinate normally as a result of personal injury or resulting medical treatment shall be required to provide a urine specimen. However, an employee who has been transported to receive medical care is not to be considered released from duty for the purpose of compliance with this policy.
10. Any specimen suspected of having been adulterated, substituted or diluted shall be forwarded to the laboratory for testing.
11. Employees will be required to supply another sample as soon as possible and without prior notification if the specimen is reported by the laboratory as being dilute. The first collection result will be canceled; the second collection result is the test on which NJ TRANSIT will rely.

D. Split Specimen

A minimum of 45 ml of urine is required for the split specimen procedure to be utilized under this policy. The urine specimen must be split and poured into two (2) specimen bottles, "A" and "B". Thirty (30) ml shall be poured into bottle "A", to be used as the primary specimen. At least 15 ml shall be poured into the other bottle ("B"), to be used as the split specimen. Both bottles shall be forwarded to the laboratory. In the event that a split sample or bottle "B" is unavailable, the provisions of Section G (6) will apply.

E. Observed Collections

1. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. The following circumstances are the only grounds constituting a reason to believe that an individual may alter or substitute a specimen.
 - a. The employee has presented a urine specimen that falls outside the normal temperature range of 90 to 100 degrees Fahrenheit; or
 - b. The DATT observes conduct clearly and unequivocally indicating an attempt to tamper with, substitute or adulterate the specimen or an attempt to bring an adulterant or a substitute urine specimen into the collection site; or
 - c. The urine specimen provided by the employee on the most recent previous occasion was determined by the laboratory and confirmed by the MRO to be invalid, substituted, or adulterated or the test result had to be canceled because the test of the split sample could not be performed.
 - d. The employee has previously been determined to have used a drug without medical authorization and the particular test is being conducted as part of a rehabilitation program on return to duty after any required rehabilitation.
 - e. When the MRO receives a laboratory report that a specimen was dilute with a creatinine concentration greater than or equal to 2 ml/dl and less than or equal to 5 ml/dl.
2. A supervisor of the DATT shall review and concur in advance with any decision by a DATT to

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obtain a specimen under direct observation. The direct observation must be performed by a DATT of the same gender as the employee being tested. The DATT's supervisor shall select the observer if there is not a DATT of the same gender available.

3. The DATT must indicate in the "Remarks" section of the CCF that the collection took place under direct observation and the reason for doing so, as well as indicating who did the observation.

F. Laboratory Testing

1. Laboratory

Urine specimens shall be analyzed by a laboratory certified under the Department of Health and Human Services' (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs. The laboratory shall be secure at all times and shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage and continuing until final disposition of specimens. NJ TRANSIT's laboratory is identified in Exhibit 2 hereto.

2. Initial Test of Primary Specimen

The laboratory shall use as an initial test an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution, and shall use the following cut-off levels:

	<u>Initial test level (ng/ml)</u>
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000*
Phencyclidine	25
Amphetamines	1,000

* 25 ng/ml if immunoassay specific for free morphine

The laboratory shall also conduct validity tests to determine if the specimen has been adulterated, substituted or diluted, and if so, identify the adulterant(s) used.

Laboratories are to report substituted samples by documenting on copy #1 of the CCF the specific gravity and creatinine concentration. Specimens with creatinine levels less than 2 ml/dl are to be reported to the MRO as substituted. Specimens with creatinine levels 2 ml/dl to 5 ml/dl will require a collection to be provided immediately under direct observation.

3. Confirmation Test of Primary Specimen

All primary specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) at the following cut-off levels:

	<u>Confirmation test level (ng/ml)</u>
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

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¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid

² Benzoyllecgonine

All opiates confirmed positive will undergo an additional test for 6-acetylmorphine at a level of 10 ng/ml.

To be confirmed positive for amphetamines, the specimen must also contain amphetamine at a level of ≥ 200 ng/ml.

G. Test of Split Specimen

1. An employee has the option of having an analysis of the split specimen performed at a different DHHS-certified laboratory should the primary specimen test result be verified positive or identified as having been adulterated or substituted.
2. The MRO shall notify each individual who has a verified positive drug test or whose sample has been determined to have been adulterated or substituted that the individual has 72 hours in which to request a test of the split specimen. If the individual requests in writing a test of the split specimen within 72 hours of having been informed of a verified positive test or an adulterated or substituted sample, the MRO shall direct, in writing, the laboratory to ship the split specimen to a different DHHS-certified laboratory for testing. Any transfer of a specimen between laboratories must be accomplished in accordance with chain of custody procedures.
3. The testing of the split sample will be conducted consistent with federal regulations. NJ TRANSIT requests an individual seeking a test of a split specimen to be responsible for the cost of any transfer of the split specimen and the cost of the test, unless the test fails to reconfirm the positive result or adulterated or substituted specimen. The MRO must receive a copy of the results from the split sample testing.
4. Because some analytes deteriorate or are lost during freezing or storage, quantification for a test of a split specimen is not subject to a specific cut-off requirement, but must provide sufficient data to confirm the presence of the drugs or metabolites. In the case of multiple confirmed positive results in the primary sample, the test of the split sample must provide sufficient data to confirm the presence of at least one of the drugs or metabolites found in the primary sample.
5. In accordance with NJ TRANSIT policy, if the result of the test of the split specimen fails to reconfirm a positive result, or an adulterated or substituted specimen, or is reported as negative, the original test shall be canceled and the employee may be returned to duty with back pay, but shall be subject to unannounced follow-up testing during the next 90 days.
6. Split samples are always to be collected. If for some reason, the split specimen or bottle "B" is lost, spilled or otherwise unavailable, the laboratory will:
 - a. Test the primary sample; and
 - b. Report the results of the primary sample to the MRO; and
 - c. Report the original test as canceled.

If the primary sample is reported as a verified positive, adulterated or substituted test, a second sample is to be collected under direct observation. The results of the second collection will be final.

H. Quality Assurance

1. The drug testing laboratory shall have a quality assurance program which encompasses all aspects of the drug testing process including, but not limited to, specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, certification of calibrators and controls, and validation of analytical procedures. Quality assurance

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procedures shall be designed, implemented and reviewed to monitor the conduct of each step of the process of testing for drugs.

2. In addition, there shall be laboratory quality control requirements for both initial and confirmation tests.
3. Blind samples shall be randomly intermingled by NJ TRANSIT and sent to the testing laboratory with individual specimens. They will be analyzed in the same manner to ensure the accuracy of the laboratory testing program.

I. Confirmation and Verification Process

1. Drug test results reported positive, substituted, adulterated or invalid by the laboratory shall not be deemed positive or disseminated to any person (other than to the employee in a medical interview with the MRO, if conducted) until they are reviewed and verified by an MRO. The MRO shall review all drug test results reported positive, substituted, adulterated or invalid by the laboratory. The review will include:
 - a. Verifying the chain of custody to ensure that it is complete and sufficient on its face; and
 - b. Verifying that the laboratory report and assessment of all drug test results are reasonable; and
 - c. Examining alternate medical explanations for positive, substituted, adulterated or invalid drug test results; and
 - d. Giving all individuals an opportunity to discuss the test results with the MRO prior to his making a decision to verify a positive, substituted, adulterated or invalid result.
2. In the case of an adulterated, substituted or invalid test, the individual is responsible for obtaining an explanation and demonstrating there is a link between the alleged reason and the ability to physiologically produce the laboratory result obtained. The proof must be presented within five (5) days after the MRO review. Employees will not be permitted to return to work during this review period and until any additional testing has been completed. Employees will be returned to duty with back pay, if the MRO determines the test to be negative on the basis of the information or documentation the employee has supplied.

J. Contact Procedures

1. The MRO or qualified staff person under the MRO's supervision will contact the individual directly in a confidential manner to arrange for the individual to discuss the test results with the MRO. Only the MRO can discuss the test results with the individual. The MRO can, however, verify a test as positive without having communicated directly with the individual about the test in three circumstances:
 - a. The individual expressly declines the opportunity to discuss the test.
 - b. Neither the MRO nor the DER has been able to contact the individual within ten (10) days of the date on which the MRO receives the confirmed positive test result from the laboratory, after making all reasonable efforts. ("All reasonable efforts" means that the MRO or designate must make and document at least three (3) attempts within a 24-hour period to contact the individual. If the MRO or designate have been unable to contact the individual, the DER will make and document at least three (3) further attempts within a second 24-hour period to contact the individual. If the DER's attempts are unsuccessful, a message can be left for the individual by voice mail, electronic mail or a letter instructing the individual to contact the MRO. The DER must inform the MRO of the dates and times of his attempts to contact the individual).
 - c. The DER has successfully made and documented a contact with the individual and instructed the individual to contact the MRO; more than 72 hours have passed since

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the individual was contacted by the DER and advised of the consequences of failing to contact the MRO within 72 hours.

K. Reevaluation Procedures

1. A laboratory-confirmed positive, substituted, adulterated or invalid test can be reevaluated by the MRO if the individual provides documented proof to the MRO within 60 days of the verification that a serious illness, injury or other circumstance beyond the individual's control prevented contact with the MRO within the specified time frame.

The MRO may change a verified positive drug test or refusal to test in the following situations:

- a. A verification done without an interview with an employee is reopened.
- b. Information, not available at the time of the original verification, is received which demonstrates there is a legitimate medical explanation for the drug/metabolite in the employee's specimen or evidence that a legitimate medical explanation for an adulterated or substituted result exists.

XII. ALCOHOL TESTING PROCEDURES

A. Evidential Breath Testing Device (EBT)

1. Alcohol testing shall be conducted using an evidential breath testing device (EBT) which shall be selected from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the Federal Register from time to time by the National Highway Traffic Safety Administration (NHTSA), of the USDOT.
2. Each device shall have a manufacturer-developed quality assurance plan approved by NHTSA that specifies a designated method to perform external calibration checks; minimum intervals for performing external calibration checks; tolerances; and inspection, maintenance and calibration requirements and intervals for the device.

B. Drug and Alcohol Testing Technician (DATT)

1. Alcohol testing shall be conducted by a DATT who is proficient in the use of the EBT and in alcohol testing procedures. The DATT shall have successfully completed a USDOT-approved course of instruction and demonstrated competence in the operation of the device and use of the breath alcohol calibrating unit.
2. The supervisor of an employee to be tested for alcohol shall not serve as the DATT for that employee's test.

C. Alcohol Testing Site

The DATT shall conduct the test in a manner that provides the employee with privacy to the greatest extent practicable. The testing site shall be secured by the DATT, with no unauthorized access at any time the EBT is unsecured or when testing is occurring. The DATT shall conduct only one test at a time and must remain at the testing site while the preparations for testing or the test itself are in progress.

D. Priority of Medical Treatment over Testing

In any case where an employee has sustained a personal injury and is subject to alcohol testing, necessary medical treatment shall be accorded priority over the provision of breath samples. However, an employee who has been transported to receive medical care is not to be considered released from duty for purposes of this policy.

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E. Screening Test

If the result of the EBT screening test is an alcohol concentration of less than 0.020, no further testing will be conducted.

F. Confirmation Test

1. If the result of the screening test is an alcohol concentration of 0.020 or greater, a confirmation test shall be performed. The confirmation test must be conducted not less than 15 minutes, but not more than 30 minutes, after the completion of the initial test.
2. Before the confirmation test is administered, the DATT shall conduct an air blank on the EBT. If the reading is greater than 0.00, the DATT shall conduct one more air blank. If the second air blank reading is greater than 0.00, that EBT shall not be used to conduct the test.
3. If the initial and confirmatory test results are not identical, the confirmation test result shall be deemed to be the final result. If the result displayed on the EBT itself is not the same as that on the printed form produced by the EBT, the test shall be canceled and the EBT removed from service. A second confirmation must be conducted using a different EBT. Documentation regarding the incident is to be completed.
4. No individual shall be deemed to have tested positive for alcohol in violation of this policy unless a confirmed breath test of at least 0.040 is obtained.
5. Any employee whose confirmation test result is between 0.020 and 0.039 will be considered unavailable for work under NJ TRANSIT policy and referred to his supervisor for appropriate action, including discipline.

G. Uncompleted Tests and Refusal to Test

1. If a screening or confirmatory test cannot be completed for any reason the DATT shall, if practical, begin a new test.
2. If an individual attempts but fails to provide an adequate amount of breath, the DATT shall inform the DER. The DATT shall order the individual to the Company doctor for an evaluation. The Company doctor may refer the employee to a physician with expertise in an appropriate medical discipline to determine if the employee's failure to provide an adequate amount of breath specimen is valid or constitutes a refusal to cooperate with a breath test. The physician(s) shall report their conclusions in writing to NJ TRANSIT's DER. An employee's failure to comply with a request by the physician(s) to obtain additional information or to appear for the required evaluation is considered a refusal to cooperate with testing.
3. An individual will be given only two (2) opportunities to provide a breath sample.

XIII. SUBSTANCE ABUSE PROFESSIONALS (SAP)

A. The SAP shall carry out the following responsibilities.

1. Advise each individual who has an alcohol concentration of 0.040 or greater, or who has a verified positive drug test result, or who has refused to submit to an alcohol or drug test of the resources available to evaluate and resolve problems associated with alcohol misuse or drug abuse, including the names, addresses and telephone numbers of SAP's and counseling and treatment programs.
2. Evaluate whether each employee who tested positive for drugs or alcohol and wants to return to work has properly followed the SAP's recommendation for treatment.
3. Determine the type of testing (i.e., drug and/or alcohol) that a returning employee shall be subject to on return-to-duty and/or follow-up testing.

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4. Determine the frequency and number of tests a returning employee shall be subject to as part of follow-up testing after returning to duty.

XIV. EMPLOYEE DRUG AND ALCOHOL ABUSE EDUCATION AND SUPERVISOR TRAINING

A. Employee Education

1. NJ TRANSIT's EAP, with the assistance of the appropriate departments, will educate all employees about the dangers of alcohol and drugs, their effects and consequences. The education program will help motivate employees to understand the problems associated with abusing alcohol and drugs and the ways such abuse will compromise their personal functioning, as well as their functioning on the job. To accomplish this objective, a number of approaches will be taken to include the following.
 - a. Displays and/or direct mailings to all employees of pertinent information on substance abuse
 - b. Orientation for all employees on EAP and opportunities for treatment and rehabilitation
 - c. Education modules will be provided as part of regularly scheduled safety meetings, rule review sessions and other regular or special meetings, to include discussions on the rationale for NJ TRANSIT's program, the reliability of drug and alcohol testing, the circumstances where disciplinary action will be taken for failure to comply with this policy and applicable requirements to assure the confidentiality of patient records, for the protection of the employee's physician-patient relationship and the employee's medical history
 - d. An educational component for employees subject to the provisions of this policy, which includes information on the effects and consequences of alcohol and drug abuse on personal health, safety and the work environment, and the manifestations and behavioral cues that may indicate substance use and abuse
 - e. Display and distribution of a hot-line telephone number for employee assistance for substance abuse problems, and
 - f. Distribution of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy to all NJ TRANSIT employees.

B. Supervisor Training

Each supervisor shall be trained in the signs and symptoms of alcohol and drug impairment and misuse. The program shall, at a minimum, provide information concerning the acute behavioral and physiological effects of alcohol and the major drug groups on the controlled substances list.

C. Communication of Policy to Employees

All employees of NJ TRANSIT and new hires, prior to commencing employment, will be given a copy of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy and required to sign a dated receipt therefor.

XV. RECORDS AND RECORD KEEPING

A. Confidentiality and Access to Records

Drug and alcohol test results may be released only under the following circumstances:

1. Upon written request, NJ TRANSIT shall promptly provide any employee with any records relating to his test.
2. No drug or alcohol test results may be released by NJ TRANSIT to a third party (except as

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provided for in subsection 3 below) unless the individual tested signs a specific authorization for the release of the results to an identified person. A copy of a verified positive drug test result or of a positive alcohol test result will be provided to the employee's union representative upon the employee's written request. No records of information or test results shall be used or disseminated by or within NJ TRANSIT and its subsidiaries for any purpose other than for providing for compliance with this policy without the voluntary written consent of the employee. Such written consent shall specify the person to whom the information may be provided. Drug and alcohol test results will not be voluntarily disclosed to law enforcement agencies or officials, except as provided for in Section VII-B.2 above.

3. NJ TRANSIT may disclose information related to a test result to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
4. When requested, NJ TRANSIT shall release information to the National Transportation Safety Board (NTSB) about a test performed as a result of an accident under NTSB investigation; or to the Secretary of Transportation or to any USDOT agency with regulatory authority over NJ TRANSIT or its employees; or to a State oversight agency with regulatory authority over NJ TRANSIT.
5. NJ TRANSIT shall also permit the Secretary of Transportation or any USDOT agency with regulatory authority over NJ TRANSIT or any of its employees access to all facilities utilized in complying with the requirements of this policy.
6. Test results can be released for a criminal or civil proceeding only if the court orders it and only to the parties involved in the proceedings.

B. Record Keeping

Records shall be maintained in a confidential and secure manner.

XVI. AUTHORITIES

A. Federal Regulations

1. Department of Transportation, Office of the Secretary, 49 CFR Part 40 – Procedures for Transportation Drug Testing Programs.
2. Department of Transportation, 49 CFR Part 29 – Government-wide Requirements for Drug-Free Workplace Act of 1988 (Grants).

B. State Regulations

Executive Order 204, March 18, 1989.

XVII. CROSS-REFERENCES

Corporate-Wide Policy and Procedures

- 3.16 Employee Discipline
- 3.25A NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Safety-sensitive employees subject to FTA regulations)
- 3.25B NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Covered Service employees subject to FRA regulations)
- 3.25C NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Safety-sensitive employees subject to FMCSA regulations)

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Contacts

AED, Human Resources (973) 491-8533
 NJ TRANSIT Headquarters
 1 Penn Plaza East
 Newark, NJ 07105-2246

Director, Employee Assistance Programs 1-800 338-2673
 2 South Avenue East (908) 272-4256
 Suite 2 – 2nd Floor
 Cranford, NJ 07016

Director, Medical Services, (973) 378-6432
 Training & Employee Development
 180 Boyden Avenue
 Maplewood, NJ 07040

Supervisor, Drug & Alcohol Program (973) 378-6554
 180 Boyden Avenue
 Maplewood, NJ 07040

Medical Review Officer (973) 378-6072
 Gail Olabisi, MD
 180 Boyden Avenue
 Maplewood, NJ 07040

NJ TRANSIT's other MRO's can be reached at the following three locations:

Hoboken Terminal	Camden Transportation Center
1 Hudson Place	Newton Avenue General Office Building
Hoboken, NJ 07030	350 Newton Avenue
(201) 714-2884	Camden, NJ 08103
	(856) 968-3981

Egg Harbor Medical Services
 Egg Harbor Garage
 1431 Doughty Road
 Egg Harbor, NJ 08234
 (609) 407-2427

Laboratory Services

Lab One, Inc.
 10101 Renner Boulevard
 Lenexa, KS 66219-9752
 (800) 728-4064



35498

NUMBER

3.25A

EFFECTIVE DATE

6/1/04

CORPORATE-WIDE POLICY AND PROCEDURE

SUPERCEDES

3.25A 03/18/99

MANUAL

SOURCE

KEY SUBJECT

Human Resources

Human Resources

Drug & Alcohol Abuse

TITLE

DRUG- AND ALCOHOL-FREE WORKPLACE POLICY Federal Transit Administration (FTA)

APPLIES TO

All NJ TRANSIT employees who perform safety-sensitive functions and who are covered by FTA regulations

APPROVAL(S)

Where the use of gender specific pronouns would have led to very awkward sentences, we have used the masculine pronoun. This use should be considered to refer to both genders.

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NOTE: Provisions of this policy shown in bold, italicized type are mandated by FTA.

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I. PURPOSE

This document outlines NJ TRANSIT's policy to achieve a drug- and alcohol-free workplace. The purpose of this policy is to ensure that NJ TRANSIT operates in the safest and most efficient manner possible, and to promote the safety and welfare of our employees and customers by creating a drug- and alcohol-free workplace and ensuring that our employees are free from the effects of drugs and alcohol.

This document outlines those requirements of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy, which are applicable only to NJ TRANSIT employees who perform safety-sensitive functions as defined herein.

II. NJ TRANSIT'S DRUG- AND ALCOHOL-FREE WORKPLACE PROGRAM

NJ TRANSIT's goal to achieve a drug- and alcohol-free workplace shall be accomplished through the implementation of a comprehensive anti-drug and alcohol program based on deterrence, detection, assistance and enforcement. The program objectives in support of this goal are to prevent drug and alcohol abuse, to assist employees who seek help, to detect drug and alcohol abuse, and to enforce NJ TRANSIT's policy.

The above objectives shall be accomplished by:

- Providing educational material that explains the requirements of NJ TRANSIT's policy and procedures
- Educating employees about the impact that drug and alcohol use, both on and off the job, can have on job performance, health and safety
- Offering an employee assistance program and encouraging affected employees to seek help voluntarily as well as encouraging referral of employees for such assistance before job performance deteriorates
- *Training for supervisors to detect the signs and symptoms of drug and alcohol abuse*
- *Screening employees for drugs and alcohol both prospective to and during employment, and*
- Enforcing NJ TRANSIT's drug- and alcohol-free workplace policy and imposing discipline when prevention and deterrence fail.

III. DEFINITIONS

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

- *An individual dies; or*
- *An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or*
- *With respect to an occurrence in which the vehicle involved is a bus, electric bus, van or automobile, one or more of the vehicles involved incur(s) disabling damage* as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.*

**Disabling damage is damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged, if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement without other damage even if no spare tire is available; or damage to*

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

- With respect to an occurrence in which the vehicle involved is a railcar, trolley car or trolley bus, the vehicle is removed from operation.

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

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of gram alcohol per 210 liters of breath as indicated by a breath test, or the alcohol as measured by grams of alcohol per 100 ml. of blood.

Alcohol Use - The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Canceled Test – A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which 49 CFR Part 40 otherwise requires. A canceled test is neither a positive nor a negative test.

Confirmation (or Confirmatory) Test - In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. In alcohol testing, a second test, following a screening test with a result of 0.020 or greater, which provides quantitative data of alcohol concentration.

Contractor - A person or organization that provides a service for a recipient, subrecipient, employer or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties. A contractor or vendor will adhere to all applicable rules and regulations per FTA as defined in this policy.

Controlled Substance – Defined by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR 1301-1316). It also includes illicit drugs, drugs that are required to be distributed only by a medical practitioner's prescription or other authorization, and certain preparations for which distribution is documented through over-the-counter sales.

Covered Employee - The Federal Transit Administration defines a covered employee as a person, including an applicant or transferee, who performs a safety-sensitive function.

Criminal Drug Statute – A federal or state criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

Designated Employer Representative (DER) – An employee authorized by the employer to initiate immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Part 40. The DER for NJ TRANSIT is the senior management official responsible for Medical Services or his designate.

Diluted Specimen – A specimen is considered diluted if the creatinine concentration is less than 20 mg/dl, but not less than 2 mg/dl, and the specific gravity is less than 1.003.

Drug - Any substance (other than alcohol) that has known mind- or function-altering effect on a human subject, specifically including any psychoactive substance and including, but not limited to, controlled substances.

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Drug and Alcohol Testing Technician (DATT) – A licensed medical professional or medical technologist or technician who is provided instruction for specimen collection under 49 CFR Part 40 and who performs the collection and certifies completion as required therein; or a person who has successfully completed training as a collector as required by 49 CFR Part 40. (NJ TRANSIT's collection site person will generally be referred to as a DATT. However, "DATT", "collector" or "collection site person" have the same meaning for purposes of this policy.)

Employee – An individual designated as subject to drug and/or alcohol testing under this policy. "Employee", "individual", "individual to be tested" and "donor" have the same meaning for purposes of this policy.

Employer - A recipient, including state recipients, who receives equipment or funding or other entity that provides mass transportation services or which performs a safety-sensitive function for such recipient or other entity. This term includes subrecipients, operators, grantees and contractors.

Federal Transit Administration (FTA) - An agency within the US Department of Transportation (USDOT).

Invalid Test - In drug testing, a drug test that has been declared invalid by a Medical Review Officer. It is neither a verified positive nor negative test, and includes a specimen rejected for testing by a laboratory. In alcohol testing, a test that is deemed invalid under 49 CFR Part 40.267 or 269. It is neither a positive nor a negative test.

Medical Review Officer (MRO) – An MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to review and interpret individuals' confirmed positive drug test results from the laboratory together with their medical histories and any other relevant biomedical information to determine if there is evidence of prohibited drug use. Information regarding NJ TRANSIT's MRO's can be found in Exhibit 2 hereto.

NJ TRANSIT Bus Operations - Refers to NJ TRANSIT Bus Operations and NJ TRANSIT Mercer.

Performing a Safety-Sensitive Function - Any period in which an employee is actually performing, ready to perform or immediately available to perform such a function.

Positive Alcohol Test - A confirmation test with an alcohol concentration result of 0.040 or greater.

Possess - To have on one's person or in one's personal effects or under one's control.

Prohibited Drug - Marijuana, cocaine, opiates, amphetamines or phencyclidine. In addition, barbiturates, benzodiazepines and methadone are prohibited drugs for sworn law enforcement officers.

Recipient - An entity receiving financial assistance under Sections 3, 9 or 18 of the Federal Transit Act.

Refusal to Submit to a Test - Failure to provide adequate breath for alcohol testing or a urine or blood specimen for drug testing, as required, without a valid medical explanation, after an employee has received notice of the requirement to be tested in accordance with a provision of this policy. Failure to cooperate with DOT requirements to complete forms, including the alcohol testing form and chain of custody form, or engaging in conduct that clearly obstructs the testing process.

Revenue Service Vehicle - A vehicle used to transport passengers, including a bus, van, car, railcar, locomotive, trolley car, trolley bus or a vehicle used on a fixed guideway.

Safety-Sensitive Functions include any of the following duties:

- Operating a revenue service vehicle, including when not in revenue service
- Operating a non-revenue service vehicle when such vehicle is required to be operated by a holder of a Commercial Driver's License
- Controlling dispatch or movement of a revenue service vehicle
- Maintaining a revenue service vehicle or equipment used in revenue service

- **Carrying a firearm for security purposes.**

These categories include supervisors who perform these functions.

Split Specimen – In drug testing, a part of the urine specimen that is sent to the certified laboratory shown in Exhibit 2 and retained unopened, and which is transported to a second laboratory if the employee requests that it be tested following a verified positive test or a verified adulterated or substituted test result of the primary specimen.

Subject to Duty - Any time period an employee is required to be available to report for duty.

Substance Abuse Professional (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a 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), with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.

Substituted Specimen or Test - A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine (i.e., a creatinine concentration less than 5 mg/dl and specific gravity less than or equal to 1.001 or greater than or equal to 1.020).

Supervisor or Supervisory Employee – An officer, special agent or other employee, whether or not directly employed by NJ TRANSIT, who is responsible for supervising or monitoring the conduct or performance of one or more NJ TRANSIT employees.

Validity Testing - Specimen validity testing is the evaluation of a 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.

Vehicle - A bus, electric bus, van, automobile, railcar, trolley car, trolley bus or vessel. A "mass transit vehicle" is a vehicle used for mass transportation.

Verified Negative Drug Test Result - A drug test result reviewed by an MRO and determined not to be evidence of use of a prohibited drug.

Verified Positive Drug Test Result - A drug test result reviewed by an MRO and determined to be evidence of use of a prohibited drug.

Workplace - Any location, including but not limited to, equipment, garages, depots, terminals, stations, offices, vehicles, buses, trolleys or trains, whether or not owned, leased or operated by NJ TRANSIT, where NJ TRANSIT business is conducted or where NJ TRANSIT job duties are performed.

IV. **PREEMPTION OF STATE AND LOCAL LAWS**

A. **FTA regulations upon which this policy is primarily based preempt any state or local law, rule, regulation or order when:**

1. **Compliance with both the state or local requirement and any requirement of FTA regulations is not possible; or**
2. **Compliance with the state or local requirement is an obstacle to accomplishing and executing any requirement of the regulations.**

B. **However, the regulations do not preempt any provisions of state criminal law that impose sanctions for reckless conduct leading to loss of life, injury or damage to property.**

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V. POLICY SCOPE AND APPLICATION

- A. It is the policy of NJ TRANSIT to comply with the requirements of the Drug-Free Workplace Act of 1988, the drug and alcohol rules promulgated by FTA, the New Jersey Division of Criminal Justice's Attorney General's Law Enforcement Drug Testing Policy and any other applicable federal or state laws and regulations.
- B. If any section of this policy is invalidated as contrary to any law, the remaining sections shall remain in full force and effect.
- C. The provisions of this policy shall be subject to any limitations or requirements imposed by federal or state law. Moreover, any employment action taken by NJ TRANSIT due to violation of this policy shall be taken in accordance with the procedures contained in any applicable labor agreement.
- D. This policy is a statement of NJ TRANSIT's current official policy and as such supersedes all prior drug and alcohol policy statements, directives and memoranda of NJ TRANSIT, NJ TRANSIT Bus Operations (including Light Rail Operations and NJ TRANSIT Mercer) dealing with this subject.
- E. As a condition of employment, this policy applies to all NJ TRANSIT employees except as noted otherwise herein or as found in Policies 3.25, 3.25B and 3.25C. NJ TRANSIT management will ensure that this policy is implemented uniformly throughout the agency.

VI. EMPLOYEES SUBJECT TO TESTING

- A. ***All employees (including supervisors), who perform safety-sensitive functions for NJ TRANSIT as defined by FTA regulations, are subject to the testing requirements of this policy. A list of NJ TRANSIT's safety-sensitive positions covered by this policy appears in Exhibit 1 hereto.***
- B. ***Employees who perform safety-sensitive functions are required under federal regulations to be tested for drugs and/or alcohol in the following circumstances: pre-employment, reasonable suspicion, post-accident, random, return-to-duty and follow-up.***
- C. All sworn law enforcement officers are also subject to any provisions of the Division of Criminal Justice's Revised Law Enforcement Drug Screening Guidelines that are not preempted by FTA regulations.
- D. Compliance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Program requirements is a condition of employment for all NJ TRANSIT employees.

VII. CONTRACTORS SUBJECT TO TESTING

- A. ***Employees of contractors who are "standing in the shoes of" NJ TRANSIT and who perform safety-sensitive functions are subject to compliance with FTA regulations regarding drug and alcohol testing (i.e., safety-sensitive functions for contract employees are the same functions as for NJ TRANSIT employees).***
- B. If NJ TRANSIT uses a contract service provider or maintenance provider, NJ TRANSIT shall ensure and certify to FTA that the contractor is in compliance with its regulations regarding drug and alcohol testing.
 - 1. NJ TRANSIT shall notify all such contractors in writing of FTA regulations and the requirements for their compliance with them.
 - 2. NJ TRANSIT shall provide all such contractors with copies of the applicable FTA regulations and ensure that each contractor provides a signed form acknowledging receipt of the regulations.
 - 3. NJ TRANSIT shall require contractors who are "standing in the shoes of" NJ TRANSIT and acting as a service provider to have a Drug and Alcohol Policy/program that meets or exceeds FTA's regulations and policy.
 - 4. NJ TRANSIT shall obtain from each contractor an annual Management Information System Report (MIS) and file the report with FTA.

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- C. All invitations for bids and requests for proposals involving the performance of safety-sensitive functions shall include a statement regarding the required compliance with FTA regulations regarding drug and alcohol testing. NJ TRANSIT shall inform the contractor in writing of FTA requirements and of NJ TRANSIT's intent to monitor the contractor's compliance with them.

VIII. STANDARDS OF CONDUCT

A. Prohibited Behavior

As a condition of employment, all NJ TRANSIT employees are prohibited from:

1. ***Being impaired by or under the influence of a drug or alcohol while subject to, reporting for, or on duty; while in the workplace; while in recognizable NJ TRANSIT uniform; while operating any NJ TRANSIT vehicle at any time; or while conducting business for or representing NJ TRANSIT.***
2. ***Using a drug at any time, whether on or off duty, except as permitted by Sections VIII-C and VIII-D ("Use of Prescription Drugs" and "Use of Over-the-Counter Medications").***
3. ***Unlawfully possessing, distributing, dispensing or manufacturing a controlled substance at any time.***
4. ***Using alcohol for whichever is the lesser of the following periods: within four (4) hours prior to reporting for duty; after receiving a call or notice to report for duty; or within four (4) hours prior to performing job duties.***
5. Possessing, distributing or using alcohol while reporting for or on duty; while in the workplace; and while in recognizable NJ TRANSIT uniform.
6. ***Using alcohol for eight (8) hours following an accident or until he has undergone a post-accident test, whichever occurs first.***

A violation of any of the above prohibitions is a dischargeable offense.

B. On-call Employees

An employee may acknowledge the use of alcohol and his inability to perform his job at the time he is called to report to duty. If an employee has acknowledged the use of alcohol but claims the ability to perform his job, the employee shall be required to take an alcohol test.

C. Use of Prescription Drugs

1. NJ TRANSIT will allow the use of a drug specifically prescribed for an employee by his physician provided:
 - a. ***The employee has described his assigned duties to the physician at the time the drug is prescribed; and***
 - b. ***With knowledge of those duties and on the basis of the available medical history, the physician has made a good faith judgment that the use of the drug(s) at the prescribed dosage level(s) is consistent with the safe performance of the employee's duties; and***
 - c. ***The drug is in its original container when the drug is in the employee's possession while in the workplace, clearly labeled with the employee's name, the name of the drug and the physician's Federal Drug Enforcement Administration number; and***
 - d. ***The drug is used at the dosage prescribed; and***

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- e. *In the event that the employee is being treated by more than one medical practitioner, at least one treating medical practitioner has been informed of all medications authorized or prescribed and has determined that the use of all medications in combination is consistent with the safe performance of the employee's duties; and*
 - f. *The employee observes any restrictions imposed with all medications authorized or prescribed, or combinations of medications authorized or prescribed.*
2. NJ TRANSIT requires that the use of a prescription drug be legitimate. An individual must, in addition to proving his compliance with the requirements set forth above, provide Medical Services with a valid current prescription or the drug in its original container as required in subsection c above, and a statement signed by the prescribing physician indicating the physician's and the employee's compliance with subsections 1a, 1b and, if applicable, 1e and 1f above. This must be submitted within 48 hours or a request by the MRO.
 3. If NJ TRANSIT's MRO determines upon review of a test reported positive by the laboratory that there was legitimate use of a prescribed drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

D. Use of Over-the-Counter Medications

1. NJ TRANSIT recognizes that use of over-the-counter (OTC) medications may compromise an employee's ability to function properly in his/her safety-sensitive position, as does the use of prescribed medication. To ensure safety in the workplace, employees are required to exercise caution when using any medication. Employees are required to do the following.
 - Observe any restrictions printed on the OTC medication
 - Use the medication according to the recommended dose
 - Consult a physician or a pharmacist for possible interactions of the OTC medication with other medication being consumed
 - Obtain clearance for use of the OTC medication while performing safety-sensitive functions from the physician, pharmacist or Medical Services.
2. If NJ TRANSIT's MRO determines, upon review of a test reported positive by the laboratory that there was legitimate use of an OTC drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

E. Notification to NJ TRANSIT of Charges and Convictions of Criminal Drug Statutes

1. All NJ TRANSIT employees must notify their immediate supervisor, in writing, within five (5) calendar days of being formally charged with a violation, and/or conviction (which includes a plea of *nolo contendere*), of any criminal drug statute.
2. Conviction of any criminal drug statute or failure to comply in a timely manner with the above notice requirements is a dischargeable offense.

F. Police Officers to Report Suspected Drug Use

Pursuant to the Law Enforcement Drug Screening Guidelines, sworn law enforcement officers must immediately report evidence of suspected drug use by other officers to their supervising officer.

G. Cooperation and Compliance with Collection and Testing

1. *Each employee or final applicant required to be tested for drugs and/or alcohol pursuant to this policy must provide complete, valid, undiluted, unadulterated breath and/or urine and/or blood specimens as requested; supply the information necessary to identify the specimens*

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(i.e., complete paperwork and initial specimen); and otherwise cooperate with collection and testing procedures.

2. *If it is required by a collection site (e.g., hospital for post-accident testing), an individual required to participate in body fluid testing shall immediately evidence consent to the taking of specimens, their release for toxicological analysis and release of the test results to NJ TRANSIT's MRO by promptly executing a consent form.* The individual is not required to execute any document waiving rights that he would otherwise have against NJ TRANSIT and any such waiver is void. The individual may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen, or to indemnify any person for the negligence of others.

3. Refusal to cooperate is a dischargeable offense in accordance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy. Any applicant who refuses to cooperate with required testing will not be hired.

H. Behavior that Constitutes a Refusal to Cooperate

Behavior that constitutes a refusal to cooperate with testing includes, but is not limited to, the following.

1. *Failure to appear for a test within a reasonable time, as determined by the employer, after being directed to do so by the employer.*
2. *Failure to remain at the testing site until the testing process is complete.*
3. *Failure to remain readily available for drug and/or alcohol testing following an accident or incident until tests have been conducted and/or specimens have been collected, without regard to any subsequent provision of specimens*
4. *Tampering with a specimen including:*
 - *Substitution of specimen*
 - *Dilution of specimen*
 - *Adulteration of specimen*
 - *Tampering with testing equipment in order to prevent a valid test*
5. *Refusal to take the test.*
6. *Refusal to cooperate with testing procedures as required by federal regulations*
7. *Failure to provide a sufficient quantity of breath or urine without a valid medical explanation*
8. *Refusing to be examined or to comply with any medical requirements to explain why a specimen was not provided in a shy lung or bladder situation*
9. *Refusing to remove outer clothing (including but not limited to coveralls, jackets, coats, hats, and sweaters) and refusing to empty pockets and display items to the collector*
10. *Refusal to permit monitoring or observation of a collection when such monitoring or observation is required under federal regulation and/or this policy.*

IX. ENFORCEMENT

A. Responsive Action

Any employee, who either (1) refuses to cooperate with collection and testing, (2) provides an adulterated or substituted sample, (3) is the subject of a verified positive drug test, or (4) is the subject of a confirmed positive alcohol test will be immediately removed from duty.

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No employee whose test result indicates an alcohol concentration of 0.020 or greater, but less than 0.040, may perform or continue to perform his job duties until the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the administration of the test.

Any employee whose test result indicates an alcohol concentration of 0.040 or greater will be taken out of service and referred to EAP for a first offense, except in the case of a positive result on a reasonable suspicion test or a post-accident test where it has been determined that the employee was at fault

The employee shall be advised by an NJ TRANSIT Employee Assistance Program SAP of the resources available to evaluate and resolve problems associated with drug and/or alcohol misuse. The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with drug and/or alcohol misuse. This referral and the subsequent evaluation by the SAP shall not affect NJ TRANSIT's right to assess discipline up to and including discharge for any violation of this policy.

B. Consequences of a Violation of Policy

1. NJ TRANSIT considers the following dischargeable offenses:
 - a. Producing a verified positive drug test or confirmed positive alcohol test (subject to right of mandatory Employee Assistance Program participation described in Section XI-C below)
 - b. Violation of any of the prohibited behaviors described in Section VIII-A above
 - c. Failure to timely notify one's supervisor of a formal charge, or conviction, of violation of a criminal drug statute
 - d. Conviction of violation of a criminal drug statute
 - e. Refusal to cooperate with collection or testing requirements
 - f. Failure to cooperate with and successfully complete EAP requirements (including after care) recommended by NJ TRANSIT's SAP's.
 - g. Failure of a sworn law enforcement officer to report suspected drug use by another sworn law enforcement officer.
2. In all cases where an employee is suspected or found to be in possession of, selling or distributing a controlled substance while on duty or in the workplace, the matter will be referred to the appropriate law enforcement agency.

C. Consequences of a Violation of Policy as a Police Officer or Applicant for Employment as a Police Officer

Pursuant to the Division of Criminal Justice's Attorney General's Law Enforcement Drug Testing Policy (revised September 1998), any sworn law enforcement officer who produces a verified positive test result for illegal use of drug(s) will be dismissed from the agency and permanently barred from future law enforcement employment in New Jersey. Moreover, any sworn officer that tests positive will be reported to the Central Drug Registry maintained by the Division of State Police.

Applicants for employment as police officers who produce a verified positive test result for illegal use of drug(s) will be removed from consideration for employment and future law enforcement employment by any law enforcement agency in New Jersey for a period of two years. Applicants who test positive will be reported to the Central Drug Registry maintained by the Division of State Police.

Sworn officers and applicants who refuse to submit to a drug test will be terminated or denied consideration for employment. Sworn officers and applicants who test positive will be reported to the Central Drug Registry.

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NJ TRANSIT considers failure of a sworn law enforcement officer to report suspected drug use by another sworn law enforcement officer a dischargeable offense.

X. DRUG AND ALCOHOL TESTS

A. Periodic Medical Examinations (Physicals)

Periodic physicals by NJ TRANSIT's Medical Services Department are available to employees who are required to have such examinations. Employees who request such examinations will be required to sign a form reflecting their consent to drug and alcohol tests as part of the examination.

B. Pre-Employment Testing

1. ***All final applicants for safety-sensitive positions, employees seeking to transfer from a non-safety-sensitive position to a safety-sensitive position and employees who are being reinstated under NJ TRANSIT policy must be given a pre-employment drug and alcohol test under FTA authority. Employees who have not performed safety-sensitive duties for 90 calendar days must take and pass a drug and alcohol test conducted under federal authority before assuming safety-sensitive duties. Individuals shall be informed of the testing requirements prior to the tests being conducted and notified that the urine sample will be tested for the presence of marijuana, cocaine, opiates, phencyclidine and amphetamines.***
2. Pursuant to the Attorney General's Law Enforcement Drug Testing Policy, a final applicant for a sworn law enforcement position must sign a notice and acknowledgment form consenting to drug testing. Final applicants for sworn law enforcement positions shall be notified that an additional urine specimen will be collected and tested for barbiturates, benzodiazepines and methadone. A trainee for a sworn law enforcement position must sign a notice and acknowledgment form consenting to random and reasonable suspicion drug testing during attendance at the police academy.
3. Any final applicant whose post-offer medical examination reveals a history of substance abuse may be referred to an NJ TRANSIT SAP for an evaluation. However, final applicants with a history of substance abuse within the past five years must be referred for an evaluation by an NJ TRANSIT SAP. Each individual will be evaluated on a case-by-case basis to determine if there is a need for unannounced follow-up testing. The SAP shall determine the nature, frequency and duration of such testing, if any, and the individual shall only be hired or transferred on the condition that he consents to such testing.
4. ***No individual shall be hired for or transferred to a safety-sensitive position unless he tests negative for drugs and obtains a result less than 0.040 on his alcohol test.***
5. ***NJ TRANSIT shall notify the individual of the results of the drug and alcohol tests. If an individual's drug test is canceled, the individual shall take another pre-employment drug test. If an individual declines to be tested and withdraws his application for employment, no record shall be maintained of the declination.***
6. Individuals who are reinstated into safety-sensitive positions must complete a physical examination, which includes a drug and alcohol test. Individuals who test positive on a reinstatement physical for either drugs and/or alcohol will not be considered for reinstatement until they have completed a Mandatory Employee Assistance Program, if eligible. Employees who are not eligible to participate in the mandatory program will be terminated.

C. Random, Unannounced Testing

1. ***All employees who perform safety-sensitive functions are subject to random, unannounced drug and alcohol testing.***
2. ***The testing will be fair and equitable with no discretion on the part of management or operations in the testing process. Employee numbers shall be in a pool from which random***

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selection is made. Employees shall be selected by a scientifically valid computer-based random number generator that is matched with the individual's employee number. All employees in the random pool shall have an equal chance of being selected for testing and shall remain in the pool even after being tested. Therefore, it is possible for some employees to be tested several times in one year. The drug and alcohol testing shall be spread reasonably throughout the calendar year and shall be conducted on all days and hours during which transit service is in operation.

3. *Once the employee has been notified that he has been selected for testing, he must report immediately to the collection site.*

D. Reasonable Suspicion Testing

1. *An employee is required to submit to an alcohol and/or drug test when a supervisor has reasonable suspicion, based on specific contemporaneous observations concerning the employee's appearance, behavior, speech or body odors, to believe the employee has engaged in any of the behaviors prohibited by this policy concerning the use of alcohol and/or drugs.*
2. *Reasonable suspicion testing shall be subject to the following limitations and conditions:*
 - a. *When the suspicion is only of drug use, a urine test shall be performed; when the suspicion is only of alcohol use, a breath test shall be performed; when the suspicion is not specific to either drug or alcohol use, both a urine and a breath test shall be performed.*
 - b. *A supervisor who makes the determination of reasonable suspicion must be trained in detecting the signs and symptoms of drug use and alcohol misuse. A supervisor who makes the determination that reasonable suspicion of alcohol use exists may not conduct the breath alcohol test on that employee. A direct supervisor of an employee shall not serve as the DATT for a drug test of an employee.*
 - c. *No employee may be required to participate in alcohol or drug testing after the expiration of an eight (8) hour period from the time of the observations providing reasonable suspicion. In the case of a drug test, the eight (8) hour requirement is satisfied if the employee has been delivered to the collection site (where the collector is present) and the request has been made to commence collection of the urine specimen within that period.*
 - d. *A supervisor may direct an employee to undergo reasonable suspicion testing for alcohol only while the employee is performing a safety-sensitive function, just before the employee is to perform a safety-sensitive function or just after the employee has ceased performing such function.*
 - e. *If an alcohol test is not administered within two (2) hours following the determination that the test should be conducted, the supervisor shall prepare and maintain on file a written record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the determination, the supervisor shall cease attempts to have the test administered and shall state in the record the reasons the test was not administered.*
 - f. *In all cases where an employee is required to be tested based upon reasonable suspicion, a written report setting forth the facts upon which the reasonable suspicion is based shall be completed and signed by the supervisor.*
 - g. *An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test (s) is negative.*

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- h. Any employee who tests positive for drugs or alcohol on a reasonable suspicion test will be discharged.

E. Post-Accident Testing

Testing for drugs and alcohol is required following an "accident" as defined in Section III above and meeting the criteria below unless an employee's performance can be discounted completely as a causative or contributing factor in the accident.

1. Fatal Accident

Whenever there is an accident involving a loss of human life, and a supervisory employee of NJ TRANSIT has a reasonable belief, based upon specific facts, that the acts or omissions of an employee performing a safety-sensitive function on duty in the vehicle at the time of the accident contributed to the occurrence or severity of the accident, that employee must be tested for drugs and alcohol. Employees not in the vehicle at the time of the accident, but whose acts or omissions could have contributed to the accident, as determined by an NJ TRANSIT supervisor using the best information available at the time of the accident, must also be tested for drugs and alcohol.

2. Non-fatal Accident

Each employee performing a safety-sensitive function on duty in the vehicle at the time of the accident shall be tested for drugs and alcohol, if a supervisory employee of NJ TRANSIT has a reasonable belief, based upon specific facts, that the employee's acts or omissions contributed to the accident's occurrence or severity and (a) any individual is taken to a medical treatment facility; (b) the accident involves a bus, electric bus, van or automobile and any of the vehicles must be towed from the scene; or (c) the accident involves a rail car, trolley car or trolley bus and results in the vehicle's removal from operation. Any employee not in the vehicle at the time of the accident, but whose acts or omissions could have contributed to the accident, as determined by a supervisor using the best information available at the time of the accident, shall be tested for drugs and alcohol.

3. Time Limitations and Conditions

- a. **An employee shall be tested for drugs within 32 hours following an accident.**
- b. **An alcohol test must be performed promptly after the accident. If a test is not administered within two (2) hours following the accident, the supervisor must still attempt to insure the administration of the test, but shall prepare and maintain on file a written record stating the reason(s) the test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the accident, the supervisor shall cease attempts to have the test administered and shall prepare and maintain a record giving the reasons why the test was not promptly administered.**
- c. **An employee who is subject to post-accident testing and who fails to remain readily available for such testing, including failing to contact his supervisor and/or the NJ TRANSIT representative at the location, or who leaves the scene of the accident prior to submission to such test, shall be deemed to have refused to cooperate with testing.**
- d. **The requirement to test for drugs and alcohol following an accident shall in no way delay necessary medical attention for injured people or prohibit an employee from leaving the scene of an accident in order to obtain assistance in responding to the accident or to obtain necessary emergency medical care.**
- e. **A written report setting forth the facts upon which the post-accident testing is based shall be completed and signed by the supervisor in all cases where an employee is required to be tested under the post-accident criteria.**

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- f. An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
- g. Any employee who tests positive for drugs or alcohol on a post- accident test where it is determined by NJ TRANSIT that the employee was at fault will be discharged.

F. Return-to-Duty Testing

1. ***Testing negative on a return-to-duty drug and/or alcohol test is required of an employee prior to his being approved to return to duty from any of the following events.***
 - a. ***Discipline resulting from a positive drug or alcohol test result***
 - b. ***Discipline resulting from violation of any of the Standards of Conduct set forth in Section VIII***
 - c. ***Returning to duty following a refusal to cooperate or tampering with, adulterating or substituting a specimen.***
 - d. ***Successful completion of NJ TRANSIT's EAP either under voluntary or mandatory participation***
2. An NJ TRANSIT SAP may require that an employee be administered a return-to-duty drug test even if the original infraction or substance abuse involved alcohol. Conversely, the SAP can require that an employee be administered a return-to-duty alcohol test even if the original infraction or substance abuse involved drugs.
3. ***Before a return-to-duty test is performed, an employee shall be evaluated by an NJ TRANSIT SAP to insure that the employee has followed the counseling and treatment recommendations.***
4. ***An employee must have a verified negative drug test result or an alcohol test result of less than 0.020 to return to duty. If a drug and/or alcohol return-to- duty test result is canceled, the employee shall be required to submit to and pass another drug and/or alcohol test.***
5. A mandatory EAP participant who tests positive on a return-to-duty test will be discharged in accordance with NJ TRANSIT's policy.

G. Unannounced Follow-Up Testing

1. ***An employee returned to duty under any of the conditions described in Section F above shall continue in any program of counseling or treatment recommended by the SAP and shall also be subject to unannounced follow-up drug and/or alcohol testing.***
2. ***Employees who successfully complete the NJ TRANSIT voluntary or mandatory EAP will be subject to a program of unannounced follow-up testing for at least 12 months, but not more than 60 months, from the date of the employee's return to duty. The frequency, duration and nature of the follow-up testing shall be determined by NJ TRANSIT's SAP, but it shall consist of a minimum of six (6) tests in the first 12 months after the employee's return to duty. Employees who are subject to follow-up testing must cooperate with testing or be subject to the same disciplinary action that is outlined in Section IX-B(1).***
3. ***An employee who participates in an NJ TRANSIT mandatory EAP and who tests positive on any unannounced follow-up test will be discharged.*** A voluntary EAP participant who tests positive will be offered the opportunity to enter the EAP on a mandatory basis as authorized by Section XI-C below.

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4. In accordance with NJ TRANSIT policy, an employee shall be subject to unannounced follow-up testing if the employee's primary drug specimen tests positive but the split specimen result is negative. In such a case, the employee shall be returned to duty and subject to unannounced follow-up testing during the next 90 days.

XI. EMPLOYEE ASSISTANCE

A. NJ TRANSIT's Employee Assistance Program (EAP)

1. In accordance with the Attorney General's Law Enforcement Drug Testing Policy (revised September 1998), NJ TRANSIT does not offer Voluntary or Mandatory EAP to an illegal drug using police officer. Any NJ TRANSIT sworn law enforcement officer who is determined to have used illegal drug(s), through his own admission, a drug test or otherwise, must be dismissed. Dismissal cannot be avoided by utilization of the EAP, even on a voluntary basis.
2. Except as indicated in subsection 1 above, it is the policy of NJ TRANSIT to encourage employees to voluntarily seek help prior to being discovered to be in violation of this policy. NJ TRANSIT provides EAP services for any employee troubled by alcohol or drug problems. EAP is an assessment, referral and rehabilitation program through which substance abuse professionals provided by or through referral by NJ TRANSIT, counsel and treat employees affected by substance abuse problems. The SAP's also monitor the progress of employees in recovery and assist them in managing these problems that may affect job performance.
3. Employees entering EAP will be evaluated by a qualified NJ TRANSIT SAP/EAP counselor. The counselor will determine if the employee is affected by a psychological or physical dependence upon alcohol or drugs or by any other identifiable and treatable mental or physical disorder involving the use of alcohol or drugs.
4. Employees shall not be permitted to participate in the EAP more than twice for drug and/or alcohol problems under this or any previous policy, unless the third participation is voluntary and begins at least 10 years after the completion of the most recent previous participation.
5. The amount of time an employee will be excused from duty for EAP participation shall not exceed 90 calendar days per treatment unless the SAP/EAP counselor indicates further treatment is required. Employees entering EAP under voluntary or mandatory participation will be entitled to receive any sick pay, health benefits or vacation time to which they are entitled, provided that they continue to comply with the EAP-recommended treatment. After the expiration of earned sick time and/or available vacation time, the balance of any time off required to complete primary treatment and gain manageability over the substance abuse problem will be granted through an unpaid leave of absence. The absence, whether paid or unpaid, will be counted against any leave allowance for which the employee is eligible under the Family and Medical Leave Act.
6. NJ TRANSIT shall not offer the voluntary EAP option in a case where the seeking of assistance, referral or report is made in anticipation of, or with the effect of, anticipating the imminent and probable detection by a supervisory employee of a policy violation.
7. All treatment records will be held in confidence, with management being simply told that the employee remains medically not qualified for duty.
8. Employees who enter EAP, either voluntarily or mandatorily, must abide by and with the treatment plan. Employees who refuse to cooperate with EAP or who fail to successfully complete the program will be discharged from NJ TRANSIT.

B. Voluntary EAP Participation

1. NJ TRANSIT's EAP is open to all employees on a voluntary and confidential basis. Except as indicated in Section XI-A(1), the EAP affords employees affected by alcohol or drug use problems the opportunity to maintain an employment relationship with NJ TRANSIT while seeking help before the employee has engaged in conduct deemed by NJ TRANSIT sufficient to warrant discipline. The employee may voluntarily seek assistance through NJ TRANSIT for treatment of the problem or be

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referred for such assistance by a supervisor, another employee or a representative of the employee's union.

2. An employee who enters EAP voluntarily will not be disciplined on account of any admission that he has previously engaged in any prohibited behavior set forth in this policy, or on account of his entry into EAP.

C. Mandatory EAP Participation

1. An employee shall be eligible for mandatory EAP participation if he has not previously had a positive drug or alcohol test or been determined to have failed to cooperate with drug or alcohol collection or testing procedures (including adulterating, substituting or tampering with a specimen) and he tests positive for drugs or alcohol in any of the following circumstances:
 - a. A test upon transfer into a safety-sensitive position, or upon reinstatement in such a position
 - b. A test conducted as part of a periodic medical examination
 - c. A post-accident test where it is determined by NJ TRANSIT that the employee was not at fault
 - d. A random unannounced test
 - e. A return-to-duty test
 - f. An unannounced follow-up test.
2. If, after any applicable hearing procedure, an employee described in Section C-1 above is determined to have violated NJ TRANSIT's policy, the employee shall be discharged unless he agrees to enter EAP and successfully complete any recommended course of treatment. If the employee agrees to enter EAP he shall be suspended without pay for 30 calendar days. The suspension shall be served concurrently with the employee's EAP participation. (See Policy No. 3.16 Employee Discipline when suspending a non-agreement employee.)
3. An employee who has already participated twice in NJ TRANSIT's EAP for drug and/or alcohol problems shall not be offered a third opportunity under this section, but shall be discharged.
4. An employee who has previously had a positive drug or alcohol test or previously been determined to have refused to cooperate with collection or testing shall be discharged in accordance with NJ TRANSIT's policy.
5. Positive drug and/or alcohol tests under all prior versions of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy shall be considered previous positive tests for purposes of this section.

D. EAP Return to Work Requirements

1. ***Employees must cooperate with and successfully complete any treatment recommended by the SAP, including any treatment plan for the period after they are returned to duty.***
2. Any SAP referral and subsequent handling, including counseling and treatment, is treated as confidential, except confidentiality is deemed waived if:
 - a. The employee at any time refuses to cooperate in a recommended course of counseling or treatment; or
 - b. The employee is subsequently involved in a disciplinary offense and, after an investigation, it is determined that the employee violated any drug and/or alcohol prohibitions.

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XII. DRUG TESTING PROCEDURES

A. Drugs Tested

Urine specimens shall be tested for the following drugs or their metabolites: marijuana, cocaine, opiates (i.e., morphine, codeine), phencyclidine (PCP) and amphetamines (i.e., methamphetamine). Additional urine specimens taken from sworn law enforcement officers shall be tested for barbiturates, benzodiazepines and methadone pursuant to the Division of Criminal Justice, Revised Attorney General's Law Enforcement Drug Testing Policy (September 1998).

B. Preparation for Collection

NJ TRANSIT and its certified drug-testing laboratory shall maintain clear and well-documented procedures for the collection, shipment and accessioning of urine specimens. Collection procedures shall include:

- 1. Use of a clean, single-use collection cup or collection container(s) that is securely wrapped until filled with the specimen; and*
- 2. Use of a tamper-evident sealing system for specimen bottles; and*
- 3. Use of a standard Drug Testing Custody and Control Form (CCF); and*
- 4. Use of a shipping container in which specimens and associated paperwork can be placed.*

NJ TRANSIT will provide written procedures, instructions and training on the collection process to certified collectors.

C. Specimen Collection

- 1. Urine specimens shall only be collected by certified collectors.*
- 2. A person with direct management or supervisory responsibility over the employee to be tested may not serve as the collector for a urine test.*
- 3. Urine specimens shall only be collected at secure, designated collection sites which have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage and shipping or transportation of specimens to a certified drug testing laboratory.*
- 4. Precautions shall be taken by the collector to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine bottle and on the CCF can identify the individual from whom the specimen was collected.*
- Upon notification of testing, individuals are required to remain available until the completion of the collection process. Individuals are required to provide at least 45 ml of urine under the split sample method of collection described below. If the individual is unable to provide at least 45 ml, the DATT shall instruct the individual that he may drink a maximum of 40 ounces of fluids over the course of three hours. The individual shall again attempt to provide a complete specimen. If the individual fails for any reason to provide 45 ml of urine within three hours, the test shall be discontinued and the DATT shall direct the individual to report to Medical Services for an evaluation by the MRO. The MRO may direct the employee to another physician with expertise in the appropriate medical discipline to determine if the employee's failure to provide a sufficient specimen is valid or constitutes a refusal to cooperate with a drug test. Based on this medical evaluation, the MRO or designated physicians shall report their conclusions in writing to NJ TRANSIT's DER.
- 6. If an individual refuses to cooperate with the collection process, the DATT must inform the appropriate supervisor and document the non-cooperation on the CCF.*
- 7. The chain of custody block of the CCF shall be properly executed by the DATT upon receipt of a specimen. Handling and transportation of specimens from one authorized individual or*

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place to another, including handling at the laboratory, shall always be accomplished through chain of custody procedures. However, since specimens are sealed in packages that would indicate any tampering during transit to the laboratory and because couriers, express carriers and postal service personnel do not have access to the CCF, such personnel need not document chain of custody during transit.

8. Specimens shall be placed in containers designed to minimize the possibility of damage during shipment to the laboratory and shall be securely sealed to eliminate the possibility of undetected tampering.
9. In any case where an employee has sustained a personal injury and is subject to drug testing, necessary medical treatment shall be accorded priority over the provision of body fluid specimens. No employee who is unable to urinate normally as a result of personal injury or resulting medical treatment shall be required to provide a urine specimen. However, an employee who has been transported to receive medical care is not to be considered released from duty for the purpose of compliance with this policy.
10. Any specimen suspected of having been adulterated, substituted or diluted shall be forwarded to the laboratory for testing.
11. Employees will be required to supply another sample as soon as possible and without prior notification if the specimen is reported by the laboratory as being dilute. The first collection result will be canceled; the second collection result is the test on which NJ TRANSIT will rely.

D. Split Specimen

A minimum of 45 ml of urine is required for the split specimen procedure to be utilized under this policy. The urine specimen must be split and poured into two (2) specimen bottles, "A" and "B". Thirty (30) ml shall be poured into bottle "A", to be used as the primary specimen. At least 15 ml shall be poured into the other bottle ("B"), to be used as the split specimen. Both bottles shall be forwarded to the laboratory. In the event that a split sample or bottle "B" is unavailable, the provisions of Section G (7) will apply.

E. Observed Collections

1. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. The following circumstances are the only grounds constituting a reason to believe that an individual may alter or substitute a specimen.
 - a. The employee has presented a urine specimen that falls outside the normal temperature range of 90 to 100 degrees Fahrenheit; or
 - b. The DATT observes conduct clearly and unequivocally indicating an attempt to tamper with, substitute or adulterate the specimen or an attempt to bring an adulterant or a substitute urine specimen into the collection site; or
 - c. The urine specimen provided by the employee on the most recent previous occasion was determined by the laboratory and confirmed by the MRO to be invalid, substituted, or adulterated or the test result had to be canceled because the test of the split sample could not be performed.

Employees who are in the follow-up program are required to provide a second sample under direct observation when the first sample is reported by the laboratory and determined by the MRO as being dilute.

- d. The employee has previously been determined to have used a drug without medical authorization and the particular test is being conducted as part of a rehabilitation program on return to duty after any required rehabilitation; or under any USDOT

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agency regulation providing for follow-up testing upon or after return to duty.

- e. *When the MRO receives a laboratory report that a specimen was dilute with a creatinine concentration greater than or equal to 2 ml/dl and less than or equal to 5 ml/dl.*
2. *A supervisor of the DATT shall review and concur in advance with any decision by a DATT to obtain a specimen under direct observation. The direct observation must be performed by a DATT of the same gender as the employee or applicant being tested. The DATT's supervisor shall select the observer if there is not a DATT of the same gender available.*
3. *The DATT must indicate in the "Remarks" section of the CCF that the collection took place under direct observation and the reason for doing so, as well as indicating who did the observation.*

F. Laboratory Testing

1. Laboratory

Urine specimens shall be analyzed by a laboratory certified under the Department of Health and Human Services' (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs. The laboratory shall be secure at all times and shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage and continuing until final disposition of specimens. NJ TRANSIT's laboratory is identified in Exhibit 2 hereto.

2. Initial Test of Primary Specimen

The laboratory shall use as an initial test an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution, and shall use the following cut-off levels:

Initial test
level (ng/ml)

<i>Marijuana metabolites</i>	<i>50</i>
<i>Cocaine metabolites</i>	<i>300</i>
<i>Opiate metabolites</i>	<i>2,000*</i>
<i>Phencyclidine</i>	<i>25</i>
<i>Amphetamines</i>	<i>1,000</i>

** 25 ng/ml if immunoassay specific for free morphine*

The laboratory shall also conduct validity tests to determine if the specimen has been adulterated, substituted or diluted, and if so, identify the specific adulterant(s) used.

Laboratories are to report substituted samples by documenting on copy #1 of the CCF the specific gravity and creatinine concentration. Specimens with creatinine levels less than 2 ml/dl are to be reported to the MRO as substituted. Specimens with creatinine levels 2 ml/dl to 5 ml/dl will require a collection to be provided immediately under direct observation.

3. Confirmation Test of Primary Specimen

All primary specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) at the following cut-off levels:

Confirmation
test level (ng/ml)

<i>Marijuana metabolite¹</i>	<i>15</i>
<i>Cocaine metabolite²</i>	<i>150</i>
<i>Opiates:</i>	
<i>Morphine</i>	<i>2,000</i>

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Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid² Benzoyllecgonine

All opiates confirmed positive will undergo an additional test for 6-acetylmorphine at a level of 10 ng/ml.

To be confirmed positive for amphetamines, the specimen must also contain amphetamine at a level of ≥ 200 ng/ml.

G. Testing of NJ TRANSIT Sworn Law Enforcement Officers

Urine specimens for sworn law enforcement officers shall be collected and tested for marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines in accordance with the above procedures under FTA regulations.

Under the Division of Criminal Justice's, Attorney General's Law Enforcement Drug Testing Policy (revised September 1998), sworn law enforcement officers are required to complete a drug testing medication information form before providing a urine sample for detection of the three drugs listed below. A separate split urine specimen will be collected and will be tested for these additional drugs and the cut-off levels for the drugs shall be as follows:

	Initial test level (ng/ml)
Barbiturates	300
Benzodiazepines	300
Methadone	300
	Confirmation test level (ng/ml)
Barbiturates	300
Benzodiazepines	300
Methadone	300

H. Test of Split Specimen

- Under NJ TRANSIT and federal regulations, an employee or final applicant for employment has the option of having an analysis of the split specimen performed at a different DHHS-certified laboratory should the primary specimen test result be verified positive or identified as having been adulterated or substituted.**
- The MRO shall notify each individual who has a verified positive drug test or whose sample has been determined to have been adulterated or substituted that the individual has 72 hours in which to request a test of the split specimen. If the individual requests in writing a test of the split specimen within 72 hours of having been informed of a verified positive test or an adulterated or substituted sample, the MRO shall direct, in writing, the laboratory to ship the split specimen to a different DHHS-certified laboratory for testing. Any transfer of a specimen between laboratories must be accomplished in accordance with chain of custody procedures.**
- The testing of the split sample will be conducted consistent with federal regulations. NJ TRANSIT requests an individual seeking a test of a split specimen to be responsible for the cost of any transfer of the split specimen and the cost of the test, unless the test fails to reconfirm the positive result or adulterated or substituted specimen. The MRO must receive a copy of the results from the split sample testing.**

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4. *Because some analytes deteriorate or are lost during freezing or storage, quantification for a test of a split specimen is not subject to a specific cut-off requirement, but must provide sufficient data to confirm the presence of the drugs or metabolites. In the case of multiple confirmed positive results in the primary sample, the test of the split sample must provide sufficient data to confirm the presence of at least one of the drugs or metabolites found in the primary sample.*
5. In accordance with NJ TRANSIT policy, if the result of the test of the split specimen is negative, an employee may be returned to duty with back pay, but he shall be subject to unannounced follow-up testing during the next 90 days.
6. *In the event that the testing of the split sample fails to reconfirm a positive result or an adulterated or substituted specimen, the original test shall be canceled. The MRO must report the failure to reconfirm to the Department of Transportation as per Appendix D of CFR Part 40.*
7. *Split samples are always to be collected. However, if for some reason, the split specimen or "B" bottle is lost, spilled or otherwise unavailable, the laboratory will:*
 - a. *Test the primary sample; and*
 - b. *Report the results of the primary sample to the MRO; and*
 - c. *Report the original test as canceled.*

If the primary sample is reported as a verified positive, adulterated or substituted test, a second sample is to be collected under direct observation. The results of the second collection will be final.

I. Quality Assurance

1. *The drug testing laboratory shall have a quality assurance program which encompasses all aspects of the drug testing process including, but not limited to, specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, certification of calibrators and controls, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented and reviewed to monitor the conduct of each step of the process of testing for drugs.*
2. *In addition, there shall be laboratory quality control requirements for both initial and confirmation tests.*
3. *Blind samples shall be randomly intermingled by NJ TRANSIT and sent to the testing laboratory with individual specimens. They will be analyzed in the same manner to ensure the accuracy of the laboratory testing program.*

J. Confirmation and Verification Process

1. *Drug test results reported positive, substituted, adulterated or invalid by the laboratory shall not be deemed positive or disseminated to any person (other than to the employee in a medical interview with the MRO, if conducted) until they are reviewed and verified by an MRO. The MRO shall review all drug test results reported positive, substituted, adulterated or invalid by the laboratory. The review will include:*
 - a. *Verifying the chain of custody to ensure that it is complete and sufficient on its face; and*
 - b. *Verifying that the laboratory report and assessment of all drug test results are reasonable; and*
 - c. *Examining alternate medical explanations for positive, substituted, adulterated or invalid drug test results; and*
 - d. *Giving all individuals (applicants and employees) an opportunity to discuss the test results with the MRO prior to his making a decision to verify a positive, substituted, adulterated or invalid result.*

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2. *In the case of an adulterated, substituted or invalid test, the individual is responsible for obtaining an explanation and demonstrating there is a link between the alleged reason and the ability to physiologically produce the laboratory result obtained. The proof must be presented within five (5) days after the MRO review. Employees will not be permitted to perform safety-sensitive duty during this review period and until any additional testing has been completed. Employees will be returned to duty with back pay, if the MRO determines the test to be negative on the basis of the information of documentation the employee supplied.*

K. Contact Procedures

1. The MRO or qualified staff person under the MRO's supervision will contact the individual directly in a confidential manner to arrange for the individual to discuss the test results with the MRO. Only the MRO can discuss the test results with the individual. The MRO can, however, verify a test as positive without having communicated directly with the individual about the test in three circumstances:
 - a. *The individual expressly declines the opportunity to discuss the test.*
 - b. *Neither the MRO nor the DER has been able to contact the individual within ten (10) days of the date on which the MRO receives the confirmed positive test result from the laboratory, after making all reasonable efforts. ("All reasonable efforts" means that the MRO or designate must make and document at least three (3) attempts within a 24-hour period to contact the individual. If the MRO or designate has been unable to contact the individual, the DER will make and document at least three (3) further attempts within a second 24-hour period to contact the individual. If the DER's attempts are unsuccessful, a message can be left for the individual by voice mail, electronic mail or a letter instructing the individual to contact the MRO. The DER must inform the MRO of the dates and times of his attempts to contact the individual).*
 - c. *The DER has successfully made and documented a contact with the individual and instructed the individual to contact the MRO; more than 72 hours have passed since the date the individual was contacted by the DER and advised of the consequences of failing to contact the MRO within 72 hours.*

L. Reevaluation Procedures

1. *A laboratory-confirmed positive, substituted, adulterated or invalid test can be reevaluated by the MRO if the individual provides documented proof to the MRO within 60 days of the verification that a serious illness, injury or other circumstance beyond the individual's control prevented contact with the MRO within the specified time frame.*

The MRO may change a verified positive drug test or refusal to test in the following situations:

- a. *A verification done without an interview with an employee is reopened.*
- b. *Information, not available at the time of the original verification, is received which demonstrates there is a legitimate medical explanation for the drug/metabolite in the employee's specimen or evidence that a legitimate medical explanation for an adulterated or substituted result exists.*

XIII. ALCOHOL TESTING PROCEDURES

A. Evidential Breath Testing Device (EBT)

1. *Alcohol testing shall be conducted using an evidential breath testing device (EBT) which shall be selected from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the Federal Register from time to time by the National Highway Traffic Safety Administration (NHTSA), USDOT.*
2. *Each device shall have a manufacturer-developed quality assurance plan approved by NHTSA that specifies a designated method to perform external calibration checks; minimum intervals for performing external calibration checks; tolerances; and inspection, maintenance and calibration requirements and intervals for the device.*

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B. Drug and Alcohol Testing Technician (DATT)

1. *Alcohol testing shall be conducted by a Drug and Alcohol Testing Technician (DATT) who is proficient in the use of the EBT and in alcohol testing procedures. The DATT shall have successfully completed a USDOT-approved course of instruction and demonstrated competence in the operation of the device and use of the breath alcohol calibrating unit.*
2. *The supervisor of an employee to be tested for alcohol shall not serve as the DATT for that employee's test.*

C. Alcohol Testing Site

The DATT shall conduct the test in a manner that provides the employee with privacy to the greatest extent practicable. The testing site shall be secured by the DATT, with no unauthorized access at any time the EBT is unsecured or when testing is occurring. The DATT shall conduct only one test at a time and must remain at the testing site while the preparations for testing or the test itself are in progress.

D. Priority of Medical Treatment over Testing

In any case where an employee has sustained a personal injury and is subject to alcohol testing, necessary medical treatment shall be accorded priority over the provision of breath samples. However, an employee who has been transported to receive medical care is not to be considered released from duty for purposes of this policy.

E. Screening Test

If the result of the EBT screening test is an alcohol concentration of less than 0.020, no further testing will be conducted.

F. Confirmation Test

1. *If the result of the screening test is an alcohol concentration of 0.020 or greater, a confirmation test shall be performed. The confirmation test must be conducted not less than 15 minutes, but not more than 30 minutes, after the completion of the initial test.*
2. *Before the confirmation test is administered, the DATT shall conduct an air blank on the EBT. If the reading is greater than 0.00, the DATT shall conduct one more air blank. If the second air blank reading is greater than 0.00, that EBT shall not be used to conduct the test.*
3. *If the initial and confirmatory test results are not identical, the confirmation test result shall be deemed to be the final result. If the result displayed on the EBT itself is not the same as that on the printed form produced by the EBT, the test shall be canceled and the EBT removed from service. A second confirmation must be conducted using a different EBT. Documentation regarding the incident is to be completed and attached to the Alcohol Testing Form (ATF).*
4. *No individual shall be deemed to have tested positive for alcohol in violation of this policy unless a confirmed breath test of at least 0.040 is obtained.*
5. *Any employee whose confirmation test result is between 0.020 and 0.039 will be considered unavailable for work under NJ TRANSIT policy and referred to his supervisor for appropriate action, including discipline.*

G. Uncompleted Tests and Refusal to Test

1. *If a screening or confirmatory test cannot be completed for any reason the DATT shall, if practical, begin a new test.*
2. *Refusal by an individual to complete and sign step 2 of the ATF, to provide an adequate amount of breath, or otherwise to cooperate with the collection process shall be noted on the ATF and the test shall be terminated. Refusal to sign Step 4 is not considered a refusal to test. Step 4 does not need to be signed if the confirmation or screening test result is less than 0.020.*

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3. *If an individual attempts but fails to provide an adequate amount of breath, the DATT shall inform the DER. The DATT shall order the individual to the Company doctor for an evaluation. The Company doctor may refer the employee to a physician with expertise in an appropriate medical discipline to determine if the employee's failure to provide an adequate amount of breath specimen is valid or constitutes a refusal to cooperate with a breath test. The physician(s) shall report their conclusions in writing to NJ TRANSIT's DER. An employee's failure to comply with a request to obtain additional information or to appear for the required evaluations is considered a refusal to cooperate with testing.*
4. An individual will be given only two (2) opportunities to provide a breath sample.

XIV. SUBSTANCE ABUSE PROFESSIONALS (SAP)

- A. The SAP shall carry out the following responsibilities.
 1. Advise each individual who has an alcohol concentration of 0.040 or greater, or who has a verified positive drug test result, or who has refused to submit to an alcohol or drug test of the resources available to evaluate and resolve problems associated with alcohol misuse or drug abuse, including the names, addresses and telephone numbers of SAP's and counseling and treatment programs.
 2. Evaluate whether each employee who tested positive for drugs or alcohol and wants to return to work has properly followed the SAP's recommendation for treatment.
 3. *Determine the type of testing, (i.e., drug and/or alcohol) that a returning employee shall be subject to on return-to-duty and/or on follow-up testing.*
 4. Determine the frequency and number of tests to which a returning employee will be subject as part of follow-up drug and/or alcohol testing after returning to duty.

XV. EMPLOYEE DRUG AND ALCOHOL ABUSE EDUCATION AND SUPERVISOR TRAINING

- A. Employee Education
 1. *NJ TRANSIT's EAP, with the assistance of the appropriate departments, will educate all employees about the dangers of alcohol and drugs, their effects and consequences. The education program will help motivate employees to understand the problems associated with abusing alcohol and drugs and the ways such abuse will compromise their personal functioning, as well as their functioning on the job. To accomplish this objective, a number of approaches will be taken to include the following.*
 - a. *Displays and/or direct mailings to all employees of pertinent information on substance abuse*
 - b. *Orientation for all employees on EAP and opportunities for treatment and rehabilitation*
 - c. Education modules will be provided as part of regularly scheduled safety meetings, rule review sessions and other regular or special meetings, to include discussions on the rationale for NJ TRANSIT's program, the reliability of drug and alcohol testing, the circumstances where disciplinary action will be taken for failure to comply with this policy and applicable requirements to assure the confidentiality of patient records for the protection of the employee's physician-patient relationship and medical history
 - d. *An educational component for employees in safety-sensitive positions, which includes information on the effects and consequences of alcohol and drug abuse on personal health, safety and the work environment, and the manifestations and behavioral cues that may indicate substance use and abuse*
 - e. *Display and distribution of a hot-line telephone number for employee assistance for substance abuse problems, and*

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- f. ***Distribution of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy to all NJ TRANSIT employees.***

B. Supervisor Training

Each supervisor shall be trained in the signs and symptoms of alcohol and drug impairment and misuse. The program shall, at a minimum, provide information concerning the acute behavioral and physiological effects of alcohol and the major drug groups on the controlled substances list.

C. Communication of Policy to Employees

All employees of NJ TRANSIT and new hires, prior to commencing employment, will be given a copy of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy and required to sign a dated receipt therefor.

XVI. RECORDS AND RECORD KEEPING

A. Confidentiality and Access to Records

Drug and alcohol tests results may be released only under the following circumstances:

1. ***Upon written request, NJ TRANSIT shall promptly provide any employee with any records relating to his test.***
2. ***No drug or alcohol test results may be released by NJ TRANSIT to a third party (except as provided for in subsection 3 below) unless the individual tested signs a specific authorization for the release of the results to an identified person. A copy of a verified positive drug test result or of a positive alcohol test result will be provided to the employee's union representative upon the employee's written request. No records of information or test results shall be used or disseminated by or within NJ TRANSIT and its subsidiaries for any purpose other than for providing for compliance with this policy without the voluntary written consent of the employee. Such written consent shall specify the person to whom the information may be provided. Drug and alcohol test results will not be voluntarily disclosed to law enforcement agencies or officials, except as provided for in Section IX-B.2 above.***
3. ***NJ TRANSIT may disclose information related to a test result to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.***
4. ***When requested, NJ TRANSIT shall release information to the National Transportation Safety Board (NTSB) about a test performed as a result of an accident under NTSB investigation; or to the Secretary of Transportation or to any USDOT agency with regulatory authority over NJ TRANSIT or its employees; or to a State oversight agency with regulatory authority over NJ TRANSIT.***
5. ***NJ TRANSIT shall also permit the Secretary of Transportation or any USDOT agency with regulatory authority over NJ TRANSIT or any of its employees access to all facilities utilized in complying with the requirements of this policy.***
6. ***Test results can be released for a criminal or civil proceeding only if the court orders it and only to the parties involved in the proceedings.***

B. Record Keeping

Records on program administration and the test results of individuals shall be maintained in accordance with 49 CFR Parts 655.71 and 655.73. Records shall be maintained in a confidential and secure manner.

If NJ TRANSIT contract services are involved, NJ TRANSIT management shall document oversight/compliance activities designed to ensure that the contractor's records are accurate and current and that they fully comply with FTA regulations.

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XVII. REPORTING

NJ TRANSIT shall file annual reports summarizing test results with FTA. The standard Management Information System (MIS) reports that must be used are contained in 49 CFR Part 40, Appendix H. NJ TRANSIT shall also submit annual MIS reports to FTA on its contractors whose employees perform safety-sensitive functions and are, therefore, covered by FTA regulations.

The above reports are to be submitted to FTA's Office of Safety and Security by March 15 of each calendar year (January 1 - December 31).

XVIII. CERTIFICATIONS

NJ TRANSIT shall certify annually to FTA compliance with the requirements of 49 CFR Part 655 using language similar to that contained therein. Certification means a written statement, authorized by NJ TRANSIT's governing board or other authorizing official, that NJ TRANSIT has complied with the provisions of Part 655.

XIX. AUTHORITIES

A. Federal Regulations

1. *Department of Transportation, Federal Transit Administration, 49 CFR Parts 653, 654 and 655 - Prevention of Alcohol and Prohibited Drug Use in Transit Operation; Rules.*
2. *Department of Transportation, 49 CFR Part 29 - Government-Wide Requirements for Drug-Free Workplace Act of 1988 (Grants).*
3. *Department of Transportation, Office of the Secretary, 49 CFR Part 40 - Procedures for Transportation Workplace Drug Testing Programs.*
4. *Department of Transportation, Federal Transit Administration, Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit, April 1994.*

B. State Regulations

1. *Executive Order 204, March 18, 1989.*
2. *Division of Criminal Justice's, Revised Law Enforcement Drug Screening Guidelines (1998).*

XX. CROSS-REFERENCES

Corporate-Wide Policy and Procedures

- 3.16 Employee Discipline
- 3.25 NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Employees not covered under Policies 3.25A/B/C)
- 3.25B NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Covered Service employees subject to FRA regulations)
- 3.25C NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Safety-sensitive employees subject to FMCSA regulations)

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Safety-Sensitive Positions

Bus Operations

Operators

- Operator
- Part-time Operator

Maintenance

- Mechanic A
- Group Specialist
- Mechanic Shops, Group 1
- Special Mechanic, Group 3
- Repairman A, Group 4
- Repairman B
- Repairman C
- Serviceperson
- Utilityman
- Lead Technician (City Subway only)
- Technician (City Subway only)
- Maintenance A (City Subway only)

Field Salaried

- Depot Clerk A
- Depot Clerk B
- Inspector A
- Inspector B
- Dispatcher A-B-C
- Depot Master A
- Depot Master B
- Depot Master C
- Parking Lot Attendant
- Starter

CDL Non-Revenue Vehicle Operator

- Maintenance Man A, B, C, D, E and N
- Special Maintenance Man
- Project Laborer
- Utilityman
- Mechanic Shops

Transportation Supervisors

- Assistant Supervisor Garage and Terminals
- Garage Supervisor
- Terminal Supervisor
- Terminal Supervisor AC
- Supervisor GW Bridge/Journal Square
- Regional Supervisor
- Chief Regional Supervisor
- Supervisor, City Subway Control Operations
- Director, City Subway Operations

Maintenance Supervisors

- Foreman I Garages
- Foreman II Garages
- Superintendent of Garages
- Foreman I Shops
- Foreman II Shops
- Superintendent of Shops
- Assistant Superintendent, Mechanical (City Subway)
- Superintendent, Mechanical (City Subway)
- Assistant Superintendent, Signals & ET (City Subway)
- Superintendent, System Eng. & MOW (City Subway)
- Superintendent, City Subway

Instructors

- Auxiliary Instructor
- Operations Instructor
- Maintenance Instructor
- Senior Maintenance Instructor
- Chief Instructor

Police

- Police Officer
- Sergeant
- Lieutenant
- Captain
- Deputy Chief
- Detective
- Detective Sergeant
- Inspector
- Investigator
- Chief

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Contacts

AED, Human Resources (973) 491-8533
 NJ TRANSIT Headquarters
 1 Penn Plaza East
 Newark, NJ 07105-2246

Director, Employee Assistance Programs 1-800 338-2673
 2 South Avenue East (908) 272-4256
 Suite 2 – 2nd Floor
 Cranford, NJ 07016

Director, Medical Services, (973) 378-6432
 Training & Development
 180 Boyden Avenue
 Maplewood, NJ 07040

Supervisor, Drug & Alcohol Program (973) 378-6554
 180 Boyden Avenue
 Maplewood, NJ 07040

Medical Review Officer (973) 378-6072
 Gail Olabisi, MD
 180 Boyden Avenue
 Maplewood, NJ 07040

NJ TRANSIT's other MRO's can be reached at the following three locations:

Hoboken Terminal	Camden Transportation Center
1 Hudson Place	Newton Avenue General Office Building
Hoboken, NJ 07030	350 Newton Avenue
(201) 714-2884	Camden, NJ 08103
	(856) 968-3981

Egg Harbor Medical Services
 Egg Harbor Garage
 1431 Doughty Road
 Egg Harbor, NJ 08234
 (609) 407-2427

Laboratory Services

Lab One, Inc.
 10101 Renner Boulevard
 Lenexa, KS 66219-9752
 (800) 728-4064

NJ TRANSIT

CORPORATE-WIDE POLICY

NUMBER

3.25B

EFFECTIVE DATE

6/1/04

SUPERSEDES

3.25B 03/18/99

MANUAL

Human Resources

SOURCE

Human Resources

KEY SUBJECT

Drug and Alcohol Abuse

TITLE

DRUG- AND ALCOHOL-FREE WORKPLACE

APPLIES TO

All NJ TRANSIT employees who perform Rail covered service

APPROVAL(S)

Where the use of gender specific pronouns would have led to very awkward sentences, we have used the masculine pronoun. This use should be considered to refer to both genders.

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I. PURPOSE

This document outlines NJ TRANSIT's policy to achieve a drug- and alcohol-free workplace. The purpose of this policy is to ensure that NJ TRANSIT operates in the safest and most efficient manner possible, and to promote the safety and welfare of our employees and customers by creating a drug- and alcohol-free workplace and ensuring that our employees are free from the effects of drugs and alcohol.

This document also outlines those requirements of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy which are applicable only to NJ TRANSIT employees who perform Rail covered service as defined herein and are covered under FRA regulations. This policy complies with FRA regulations except in those areas where it is specifically identified as NJ TRANSIT policy or procedure.

II. NJ TRANSIT'S DRUG- AND ALCOHOL-FREE WORKPLACE PROGRAM

NJ TRANSIT's goal to achieve a drug- and alcohol-free workplace shall be accomplished through the implementation of a comprehensive anti-drug and alcohol program based on deterrence, detection, assistance and enforcement. The program objectives in support of this goal are to prevent drug and alcohol abuse, to assist employees who seek help, to detect drug and alcohol abuse and to enforce NJ TRANSIT's policy.

The above objectives shall be accomplished by:

- Providing educational material that explains the requirements of NJ TRANSIT's policy and procedures
- Educating employees about the impact that drug and alcohol use, both on and off the job, can have on job performance, health and safety
- Offering an employee assistance program and encouraging affected employees to seek help voluntarily as well as encouraging referral of employees for such assistance before job performance deteriorates
- Training for supervisors to detect the signs and symptoms of drug and alcohol abuse
- Screening employees for drugs and alcohol both prospective to and during employment, and
- Enforcing NJ TRANSIT's drug- and alcohol-free workplace policy and imposing discipline when prevention and deterrence fails.

III. DEFINITIONS

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

- An individual dies; or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
- One of more of the vehicles involved incur(s) disabling damage* and is transported away from the scene by a tow truck or other vehicle.

**Disabling damage is damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs.*

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Disabling damage includes damage to vehicles that could have been operated but would have been further damaged, if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement without other damage even if no spare tire is available; or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.

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

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of gram alcohol per 210 liters of breath as indicated by a breath test, or the alcohol as measured by grams of alcohol per 100 ml of blood.

Alcohol Use - The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Canceled Test – A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which 49 CFR Part 40 otherwise requires. A canceled test is neither a positive nor a negative test.

Confirmation (or Confirmatory) Test - In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. In alcohol testing, a second test, following a screening test with a result of 0.020 or greater, which provides quantitative data of alcohol concentration.

Contractor or Vendor - A person or organization that provides a service for a recipient, sub-recipient, employer or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties. A contractor or vendor will adhere to all applicable rules and regulations per FRA as defined by this policy.

Controlled Substance – Defined by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR 1301-1316). It also includes illicit drugs, drugs that are required to be distributed only by a medical practitioner's prescription or other authorization, and certain preparations for which distribution is documented through over-the-counter sales.

Covered Employee – A person who has been assigned to perform service subject to the Hours of Service Act (45 U.S.C. 61-64b) during a duty tour, whether or not the person has performed or is currently performing such service, and any person who performs such service. For the purpose of pre-employment testing only, the term "covered employee" includes a person applying for a position in which he will perform covered service.

Covered Service – Service for NJ TRANSIT that is subject to the Hours of Service Act (45 U.S.C. 61-64b), but not including any period the employee is relieved of all responsibilities and is free to come and go without restriction.

Co-worker – Another employee of Rail Operations, including an agreement supervisor directly associated with a yard or train crew such as conductor or yard foreman, but not including any other railroad supervisor or officer.

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Criminal Drug Statute – A federal or state criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

Designated Employer Representative (DER) – An employee authorized by the employer to initiate immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Part 40. The DER for NJ TRANSIT is the senior management official responsible for Medical Services or his designate.

Diluted Specimen – A specimen is considered diluted if the creatinine concentration is less than 20 mg/dl, but not less than 2 mg/dl, and the specific gravity is less than 1.003.

Drug - Any substance (other than alcohol) that has known mind- or function-altering effect on a human subject, specifically including any psychoactive substance and including, but not limited to, controlled substances.

Drug and Alcohol Testing Technician (DATT) – A licensed medical professional or medical technologist or technician who is provided instruction for specimen collection under 49 CFR Part 40 and who performs the collection and certifies completion as required therein; or a person who has successfully completed training as a collector as required by 49 CFR Part 40. (NJ TRANSIT's collection site person will generally be referred to as a DATT. However, "DATT", "collector" and "collection site person" have the same meaning for purposes of this policy.)

Employee – An individual designated as subject to drug and/or alcohol testing under this policy. "Employee", "individual", "individual to be tested" and "donor" have the same meaning for purposes of this policy.

Federal Railroad Administration (FRA) – An agency within the US Department of Transportation (USDOT).

Impact Accident – A train accident (i.e., rail equipment accident involving damage in excess of the current FRA reporting threshold) involving a head-on collision, rear-end collision, side collision, switching collision or impact with a deliberately placed obstruction such as a bumping post.

Independent Medical Facility – A medical facility not under the ownership or control of NJ TRANSIT and not operated or staffed by a salaried officer or employee of NJ TRANSIT.

Invalid Test - In drug testing, a drug test that has been declared invalid by a Medical Review Officer. It is neither a verified positive nor negative test, and includes a specimen rejected for testing by a laboratory. In alcohol testing, a test that is deemed invalid under the criteria found in 49 CFR Part 40.267 or 269. It is neither a positive nor a negative test.

Medical Facility – A hospital, clinic, physician's office or laboratory where toxicological specimens can be collected according to recognized professional standards.

Medical Review Officer (MRO) – An MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to review and interpret individuals' confirmed positive drug test results from the laboratory together with their medical histories and any other relevant biomedical information to determine if there is evidence of prohibited drug use. Information regarding NJ TRANSIT's MRO's can be found in Exhibit 2 hereto.

Passenger Train – A train transporting persons (other than employees, contractors or persons riding equipment to observe or monitor railroad operations) in intercity passenger service, commuter or other short-haul service, or for excursion or recreational purposes.

Positive Alcohol Test - A confirmation test with an alcohol concentration result of 0.040 or greater.

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Possess - To have on one's person or in one's personal effects or under one's control.

Prohibited Drug - Marijuana, cocaine, opiates, amphetamines or phencyclidine.

Rail Accident/Incident - An accident or incident, including a personal injury, reportable to the FRA under 49 CFR Part 225.

Railroad - All forms of non-highway ground transportation that run on rails or electromagnetic guideways. This term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.

Railroad Property Damage - Damage to railroad property, including railroad on-track equipment, signals, track, track structures (e.g., bridges and tunnels) or roadbed, including labor costs and all other costs for repair or replacement in kind. Estimated cost for replacement of railroad property shall be calculated as described in the FRA Guide of Preparing Accident/Incident Reports (49 CFR Part 225). However, replacement of passenger equipment shall be calculated based on the cost of acquiring a new unit for comparable service.

Refusal to Submit to a Test - Failure to provide adequate breath for alcohol testing or a urine or blood specimen for drug testing, as required, without a valid medical explanation, after an employee has received notice of the requirement to be tested in accordance with the provisions of this policy. Failure to cooperate with DOT requirements to complete forms, including the Alcohol Testing Form and Chain of Custody Form, or engaging in conduct that clearly obstructs the testing process.

Reportable Injury - An injury reportable under 49 CFR Part 225.

Reporting Threshold - The amount specified in 49 CFR Part 225.19(c) as adjusted from time to time in accordance with Appendix A of 49 CFR Part 225.

Responsible Railroad Supervisor - Any responsible line supervisor (e.g., a trainmaster or road foreman of engines) or superior official in authority over the employee to be tested.

Split Specimen - In drug testing, a part of the urine specimen that is sent to the certified laboratory shown in Exhibit 2 and retained unopened, and which is transported to a second laboratory if the employee requests that it be tested following a verified positive test or a verified adulterated or substituted test result of the primary specimen.

Subject to Duty - Any time period an employee is required to be available to report for duty.

Substance Abuse Professional (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a 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), with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.

Substituted Specimen or Test - A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine (i.e., a creatinine concentration less than 5 mg/dl and specific gravity less than or equal to 1.001 or greater than or equal to 1.020).

Supervisor or Supervisory Employee - An officer, special agent or other employee, whether or not directly employed by NJ TRANSIT, who is not a co-worker as defined above, and who is responsible for supervising or monitoring the conduct or performance of one or more NJ TRANSIT employees.

Train - A locomotive, or more than one locomotive coupled, with or without cars. (A locomotive is a self-propelled unit of equipment, which can be used in train service.)

Train Accident - A passenger, freight or work train accident described in 49 CFR Part 225.19(c). A "rail

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equipment accident" involving damage (in excess of the current reporting threshold), including an accident involving a switching movement.

Train Incident - An event involving the movement of railroad on-track equipment that results in a casualty, but in which railroad property damage does not exceed the reporting threshold.

Validity Testing - Specimen validity testing is the evaluation of a 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.

Vehicle - An automobile, truck or van.

Verified Negative Drug Test Result - A drug test result reviewed by an MRO and determined not to be evidence of use of a prohibited drug.

Verified Positive Drug Test Result - A drug test result reviewed by an MRO and determined to be evidence of use of a prohibited drug.

Workplace - Any location, including but not limited to, equipment, garages, depots, terminals, stations, offices, vehicles, buses, trolleys or trains, whether or not owned, leased or operated by NJ TRANSIT, where NJ TRANSIT business is conducted or where NJ TRANSIT job duties are performed.

IV. PREEMPTION OF STATE AND LOCAL LAWS

- A. FRA regulations upon which this policy is primarily based preempt any state or local law, rule, regulation or order when:
 1. Compliance with both the state or local requirement and any requirement of FRA regulations is not possible; or
 2. Compliance with the state or local requirement is an obstacle to accomplishing and executing any requirement of the regulations.
- B. However, the regulations do not preempt any provisions of state criminal law that impose sanctions for reckless conduct leading to loss of life, injury or damage to property.

V. POLICY SCOPE AND APPLICATION

- A. It is the policy of NJ TRANSIT to comply with the requirements of the Drug-Free Workplace Act of 1988, the drug and alcohol rules promulgated by FRA and any other applicable federal or state laws and regulations.
- B. If any section of this policy is invalidated as contrary to any law, the remaining sections shall remain in full force and effect.
- C. The provisions of this policy shall be subject to any limitations or requirements imposed by federal or state law. Moreover, any employment action taken by NJ TRANSIT due to violation of this policy shall be taken in accordance with the procedures contained in any applicable labor agreement.
- D. This policy is a statement of NJ TRANSIT's current official policy and as such supersedes all prior drug and alcohol policy statements, directives and memoranda of NJ TRANSIT and NJ TRANSIT Rail Operations.
- E. As a condition of employment, this policy applies to all NJ TRANSIT employees except as noted otherwise herein or as found in Policies 3.25, 3.25A and 3.25C. NJ TRANSIT management will ensure that this policy is implemented uniformly throughout the agency.

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- A. All employees who perform covered service for NJ TRANSIT, as defined by FRA regulations, are subject to the testing requirements of this policy. A list of NJ TRANSIT's covered service positions subject to the provisions of this policy appears in Exhibit 1 hereto.
- B. Covered employees are required under federal regulations to be tested for drugs and/or alcohol in the following circumstances: pre-employment (including pre-placement in a covered service position), reasonable suspicion, reasonable cause, post-accident, random, return-to-duty and follow-up.
- C. Compliance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Program requirements is a condition of employment for all NJ TRANSIT employees.

VII. RESPONSIBILITY FOR COMPLIANCE

- A. Any independent contractor or other entity whose employees perform covered service for NJ TRANSIT must certify their compliance with 49 CFR Part 219 with respect to those employees who perform covered service. The responsibility for compliance must be clearly spelled out in any contract between NJ TRANSIT and the contractor.
- B. In the case of a joint operation with another railroad and in which post-accident testing and/or for cause testing must be done, primary responsibility for compliance with this policy with respect to determination of events qualifying for testing shall rest with the host railroad, and all affected employees shall be responsive to direction from the host railroad.

VIII. STANDARDS OF CONDUCT**A. Prohibited Behavior**

As a condition of employment, all NJ TRANSIT employees are prohibited from:

1. Being impaired by or under the influence of a drug or alcohol while subject to, reporting for, or on duty; while in the workplace; while in recognizable NJ TRANSIT uniform; while operating any NJ TRANSIT vehicle at any time; or while conducting business for or representing NJ TRANSIT.
2. Using a drug at any time, whether on or off duty, except as permitted by Section VIII-C and VIII-D ("Use of Prescription Drugs" and "Use of Over-the-Counter Medications").
3. Unlawfully possessing, distributing, dispensing or manufacturing a controlled substance at any time.
4. Using alcohol for whichever is the lesser of the following periods: within four (4) hours prior to reporting for duty; after receiving a call or notice to report for duty; or within four (4) hours prior to performing job duties.
5. Possessing, distributing or using alcohol while reporting for or on duty; while in the workplace; and while in recognizable NJ TRANSIT uniform.
6. Using alcohol for eight (8) hours following the accident or until he has undergone a post-accident test, whichever occurs first.

A violation of any of the above prohibitions is a dischargeable offense.

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B. On-call Employees

An employee may acknowledge the use of alcohol and his inability to perform his job at the time he is called to report to duty. If the employee has acknowledged the use of alcohol but claims the ability to perform his job, the employee shall be required to take an alcohol test.

C. Use of Prescription Drugs

1. NJ TRANSIT will allow the use of a drug specifically prescribed for an employee by his physician provided:
 - a. The employee has described his assigned duties to the physician at the time the drug is prescribed; and
 - b. With knowledge of those duties and on the basis of the available medical history, the physician has made a good faith judgment that the use of the drug(s) at the prescribed dosage level(s) is consistent with the safe performance of the employee's duties; and
 - c. The drug is in its original container when it is in the employee's possession while in the workplace; clearly labeled with the employee's name, the name of the drug and the physician's Federal Drug Enforcement Administration number; and
 - d. The drug is used at the dosage prescribed; and
 - e. In the event that the employee is being treated by more than one medical practitioner, at least one treating medical practitioner has been informed of all medications authorized or prescribed and has determined that the use of all medications in combination is consistent with the safe performance of the employee's duties; and
 - f. The employee observes any restrictions imposed with all medications authorized or prescribed, or combinations of medications authorized or prescribed.
2. NJ TRANSIT requires that the use of a prescription drug be legitimate, and an individual must, in addition to proving his compliance with the requirements set forth above, provide Medical Services with a valid current prescription or the drug in its original container as required in subsection c above, and a statement signed by the prescribing physician indicating the physician's and the employee's compliance with subsections 1a, 1b and, if applicable, 1e and 1f above. This must be submitted within 48 hours of a request by the MRO.
3. If NJ TRANSIT's MRO determines, upon review of a test reported positive by the laboratory that there was legitimate use of a prescribed drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

D. Use of Over-the-Counter Medications

1. NJ TRANSIT recognizes that use of over-the-counter (OTC) medications may compromise an employee's ability to function properly in his/her covered service position, as does the use of prescribed medication. To ensure safety in the workplace, employees are required to exercise caution when using any medication. Employees are required to do the following.
 - Observe any restrictions printed on the OTC medication
 - Use the medication according to the recommended dose

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- Consult a physician or a pharmacist for possible interactions of the OTC medication with other medication being consumed
 - Obtain clearance for use of the OTC medication while performing safety-sensitive functions from the physician, pharmacist or Medical Services.
- 2. If NJ TRANSIT's MRO determines upon review of a test reported positive by the laboratory that there was legitimate use of an OTC drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

D. Notification to NJ TRANSIT of Charges and Convictions of Criminal Drug Statutes

1. All NJ TRANSIT employees must notify their immediate supervisor, in writing, within five (5) calendar days of being formally charged with a violation, and/or conviction (which includes a plea of nolo contendere), of any criminal drug statute.
2. Conviction of any criminal drug statute or failure to comply in a timely manner with the above notice requirements is a dischargeable offense.

E. Cooperation and Compliance with Collection and Testing

1. Each employee or final applicant required to be tested for drugs and/or alcohol pursuant to this policy must provide complete, valid, undiluted, unadulterated breath and/or urine and/or blood specimens as requested; supply the information necessary to identify the specimens (i.e., complete paperwork and initial specimen); and otherwise cooperate with collection and testing procedures.
2. If it is required by a collection site (e.g., hospital for post-accident testing), an individual required to participate in body fluid testing shall immediately evidence consent to the taking of specimens, their release for toxicological analysis, and release of the test results to NJ TRANSIT's MRO by promptly executing a consent form. The individual is not required to execute any document waiving rights that he would otherwise have against NJ TRANSIT and any such waiver is void. The individual may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen, or to indemnify any person for the negligence of others.
3. Refusal to cooperate is a dischargeable offense in accordance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy. Any applicant who refuses to cooperate with required testing will not be hired.

F. Behavior that Constitutes a Refusal to Cooperate

Behavior that constitutes a refusal to cooperate with testing includes, but is not limited to, the following.

1. Failure to appear for a test within a reasonable time, as determined by the employer, after being directed to do so by the employer.
2. Failure to remain at the testing site until the testing process is complete.
3. Failure to remain readily available for drug and/or alcohol testing following an accident or incident until tests have been conducted and/or specimens have been collected, without regard to any subsequent provision of specimens.
4. Tampering with a specimen including:
 - Substitution of specimen

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- Dilution of specimen
- Adulteration of specimen
- Tampering with testing equipment in order to prevent a valid test.

5. Refusal to take the test.
6. Refusal to cooperate with testing procedures as required by federal regulations.
7. Failure to provide a sufficient quantity of breath or urine without a valid medical explanation.
8. Refusing to be examined or to comply with any medical requirements to explain why a specimen was not provided in a shy lung or bladder situation.
9. Refusing to remove outer clothing (including but not limited to coveralls, jackets, coats, hats, sweaters) and refusing to empty pockets and display items to the collector.
10. Refusal to permit monitoring or observation of a collection when such monitoring or observation is required under federal regulation and/or NJ TRANSIT policy.

IX. CO-WORKER REPORT PROGRAM

A. Maintenance of Employment Relationship

An employee may maintain an employment relationship with NJ TRANSIT following an alleged first offense under NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy subject to the conditions and procedures set forth below.

B. General Conditions

1. The alleged violation must come to the attention of NJ TRANSIT as a result of a report by a co-worker that the employee was apparently unsafe to work with or was, or appeared to be, in violation of any of the Prohibited Behaviors set forth in this policy.
2. If a supervisory employee determines that the employee is in violation of the policy, NJ TRANSIT shall immediately remove the employee from service without pay.
3. If there is reasonable cause as defined in Section XI of this policy, a drug and/or alcohol test shall be conducted.
4. The employee must elect to waive investigation on the rule charge and must contact an NJ TRANSIT SAP within three (3) calendar days from the date on which the supervisor removed the employee from service.
5. The SAP must schedule necessary interviews with the employee and complete an evaluation within ten (10) calendar days of the date on which the employee contacts the SAP with a request for evaluation, unless it becomes necessary to refer the employee for further evaluation. In each case, all necessary evaluations must be completed within 20 calendar days from the date on which the employee first contacts the SAP.

C. When Treatment Is Required

If the SAP determines the employee is affected by psychological or chemical dependence on alcohol or a drug, or by another identifiable and treatable mental or physical disorder involving the abuse of drugs or the misuse of alcohol, the following conditions and procedures should apply.

1. NJ TRANSIT shall, to the extent necessary for treatment and rehabilitation, grant the employee

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an unpaid leave of absence of not less than 45 days and not more than 90 days to complete primary treatment unless the SAP/EAP counselor indicates further treatment is required to obtain management of the substance abuse problem. This absence will be counted against any leave allowance for which the employee may be eligible under the Family and Medical Leave Act.

2. The employee shall agree to undertake and successfully complete a course of treatment deemed acceptable by the SAP.
3. NJ TRANSIT shall promptly return the employee to duty upon recommendation of the SAP. Return to duty shall also be conditioned on successful completion of a return-to-duty medical examination, including an alcohol and/or drug test.
4. Following his return to duty, the employee, as a further condition of withholding discipline, shall, as necessary, be required to participate in a program of follow-up treatment as prescribed by the SAP for a period not to exceed five (5) years from the date the employee was initially seen by the SAP.

D. When Treatment Is Not Required

If the SAP determines that the employee is not affected by an identifiable and treatable mental or physical disorder:

1. NJ TRANSIT shall return the employee to duty within five (5) calendar days after the completion of the SAP's evaluation.
2. NJ TRANSIT may require the employee to participate in a program of education and training concerning the effects of alcohol and drugs on occupational or transportation safety during or following the out-of-duty period.

X. ENFORCEMENT

A. Responsive Action

Any employee, who either (1) refuses to cooperate with collection and testing, (2) provides an adulterated or substituted sample, (3) is the subject of a verified positive drug test, or (4) is the subject of a confirmed positive alcohol test will be immediately removed from duty.

No employee whose test result indicates an alcohol concentration of 0.020 or greater, but less than 0.040, may perform or continue to perform his job duties until the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the administration of the test.

Any employee whose test result indicates an alcohol concentration of 0.040 or greater will be taken out of service and referred to EAP for a first offense, except in the case of a positive result on a reasonable suspicion test, a reasonable cause test or a post-accident test where it has been determined that the employee was at fault.

The employee shall be advised by an NJ TRANSIT Employee Assistance Program SAP of the resources available to evaluate and resolve problems associated with drug and/or alcohol misuse. The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with drug and/or alcohol misuse. This referral and the subsequent evaluation by the SAP shall not affect NJ TRANSIT's right to assess discipline up to and including discharge for any violation of this policy.

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B. Consequences of a Violation of Policy

1. NJ TRANSIT considers the following as dischargeable offenses:
 - a. Producing a verified positive drug test or confirmed positive alcohol test (subject to right of mandatory Employee Assistance Program participation described in Section XII-C below)
 - b. Violation of any of the prohibited behaviors described in Section VIII-A above
 - c. Failure to timely notify one's supervisor of a formal charge, or conviction, of violation of a criminal drug statute
 - d. Conviction of violation of a criminal drug statute
 - e. Refusal to cooperate with collection or testing requirements
 - f. Failure to cooperate with and successfully complete EAP requirements (including after care) recommended by NJ TRANSIT's SAP's.
2. In all cases where an employee is suspected or found to be in possession of, selling or distributing a controlled substance while on duty or in the workplace, the matter will be referred to the appropriate law enforcement agency.

XI. DRUG AND ALCOHOL TESTS

A. Periodic Medical Examinations (Physicals)

Periodic physicals by NJ TRANSIT's Medical Services Department are available to employees who are required to have such examinations. Employees who request such examinations will be required to sign a form reflecting their consent to drug and alcohol tests as part of the examination.

B. Pre-Employment Testing

1. All final applicants for covered service positions, employees seeking to transfer from a non-covered service position to a covered service position and employees who are being reinstated under NJ TRANSIT policy must be given a pre-employment drug and alcohol test under FRA authority. Employees who have not performed covered service duties for 90 calendar days must take and pass a drug and alcohol test conducted under federal authority before assuming covered service duties. Individuals shall be informed of the testing requirements prior to the tests being conducted and notified that the urine sample will be tested for the presence of marijuana, cocaine, opiates, phencyclidine and amphetamines.
2. Any final applicant whose post-offer medical examination reveals a history of substance abuse may be referred to an NJ TRANSIT SAP for an evaluation. However, final applicants with a history of substance abuse within the past five years must be referred for an evaluation by an NJ TRANSIT SAP. Each individual will be evaluated on a case-by-case basis to determine if there is a need for unannounced follow-up testing. The SAP shall determine the nature, frequency and duration of such testing, if any, and the individual shall only be hired or transferred on the condition that he consents to such testing.
3. No individual shall be hired for or transferred to a covered service position unless he tests negative for drugs and obtains a result less than 0.040 on his alcohol test.
4. NJ TRANSIT shall notify the individual of the results of the drug and alcohol tests. If an individual's drug test is canceled, the individual shall take another pre-employment drug test. If an individual declines to be tested and withdraws his application for employment, no

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record shall be maintained of the declination.

5. Individuals who are reinstated into covered service positions must complete a physical examination which includes a drug and alcohol test. Individuals who test positive on a reinstatement physical for either drugs and/or alcohol will not be considered for reinstatement until they have completed a Mandatory Employee Assistance Program, if eligible. Employees who are not eligible to participate in the mandatory program will be terminated.

C. Random, Unannounced Testing

1. All employees who perform covered service functions are subject to random, unannounced drug and alcohol testing.
2. The testing will be fair and equitable with no discretion on the part of management or operations in the testing process. Employee numbers shall be in a pool from which random selection is made. Employees shall be selected by a scientifically valid computer-based random number generator that is matched with the individual's employee number. All employees in the random pool shall have an equal chance of being selected for testing and shall remain in the pool even after being tested. Therefore, it is possible for some employees to be tested several times in one year. The drug and alcohol testing shall be spread reasonably throughout the calendar year, and shall be conducted on all days and hours during which transportation services are in operation.
3. Once the employee has been notified that he has been selected for testing, he must report immediately to the collection site.

D. Reasonable Suspicion Testing

1. An employee is required to submit to an alcohol and/or drug test when a supervisor has reasonable suspicion, based on specific contemporaneous observations concerning the appearance, behavior, speech or body odors of the employee, to believe the employee has engaged in any of the behaviors prohibited by this policy concerning the use of alcohol and/or drugs.
2. Reasonable suspicion testing shall be subject to the following limitations and conditions:
 - a. When the suspicion is only of drug use, a urine test shall be performed; when the suspicion is only of alcohol use, a breath test shall be performed; when the suspicion is not specific to either drug or alcohol use, both a urine and a breath test shall be performed.
 - b. A supervisor who makes the determination of reasonable suspicion must be trained in detecting the signs and symptoms of drug use and alcohol misuse. A supervisor who makes the determination that reasonable suspicion of alcohol use exists may not conduct the breath alcohol test on that employee. A direct supervisor of an employee shall not serve as the DATT for a drug test of an employee.
 - c. With respect to a drug test, the decision to require a urine test shall be made by two (2) supervisors, at least one of whom is trained in the signs and symptoms of drug influence, intoxication and misuse. Only one supervisor is required to make the decision if alcohol misuse is suspected. That supervisor is required to be trained in the signs and symptoms of alcohol misuse. A person with management or supervisory responsibility over the employee to be tested, or a co-worker of the employee to be tested, may not serve as a collector.
 - d. No employee may be required to participate in alcohol or drug testing after the

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expiration of an eight (8) hour period from the time of the observations providing reasonable suspicion. In the case of a drug test, the eight (8) hours requirement is satisfied if the employee has been delivered to the collection site (where the collector is present) and the request has been made to commence collection of the urine specimen within that period.

- e. A supervisor may direct an employee to undergo reasonable suspicion testing for alcohol only while the employee is performing covered service, just before the employee is to perform covered service, or just after the employee has ceased performing such function.
- f. If an alcohol test is not administered within two (2) hours following the determination that the test should be conducted, the supervisor shall prepare and maintain on file a written record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the determination, the supervisor shall cease attempts to have the test administered and shall state in the record the reasons it was not administered.
- g. In all cases where an employee is required to be tested based upon reasonable suspicion, a written report setting forth the facts upon which the reasonable suspicion is based shall be completed and signed by the supervisor(s).
- h. An employee shall be removed from service without pay pending the outcome of the test(s). An employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
- i. Any employee who tests positive for drugs or alcohol on a reasonable suspicion test will be discharged.

E. Reasonable Cause Testing

1. The following circumstances constitute reasonable cause for the administration of an alcohol and/or drug test:

- a. Accident/Incident

An employee has been involved in an accident or incident reportable to the FRA under 49 CFR Part 225 and a supervisory employee of NJ TRANSIT Rail Operations has a reasonable belief, based on specific facts, that the employee's acts or omissions contributed to the occurrence or severity of the accident or incident; or

- b. Rule Violation

An employee has been directly involved in one of the following operating rule violations or errors:

- i. Non-compliance with a Form D train order, track warrant, timetable, signal indication, special instruction or other directive with respect to movement of a train that involves:
 - (a) Occupancy of a block or other segment of track to which entry was not authorized; or
 - (b) Failure to clear a track to permit opposing or following movement to pass; or

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- (c) Moving across a railroad crossing at grade without authorization; or
- (d) Passing an absolute restrictive signal or passing an absolute restrictive signal without stopping (if required).
- ii. Failure to protect a train as required by a rule consistent with 49 CFR Part 218.37, including failure to protect a train that is fouling an adjacent track, where required by the railroad's rules;
- iii. Operation of a train at a speed that exceeds the maximum authorized speed by at least ten (10) miles per hour or by 50 percent of such maximum authorized speed, whichever is less; or
- iv. Alignment of a switch in violation of a railroad rule, failure to align a switch as required for movement, operation of a switch under a train or unauthorized running through a switch; or
- v. Failure to apply or stop short of derail as required;
- vi. Failure to secure a hand brake or failure to secure sufficient hand brakes, as required; or
- vii. Entering a crossover before both switches are aligned for movement; or
- viii. In the case of a person performing a dispatching function or block operator function, issuance of a train order or establishment of a route that fails to provide proper protection for a train or track car.

2. Testing for Cause Shall Be Subject to the Following Limitations and Conditions

- a. Testing shall be conducted promptly following the observations or events upon which the testing decision is based, consistent with the need to protect life and property, and shall be conducted after observations or events that occur during duty hours (including any period of overtime or emergency service).
- b. No employee shall be required to participate in alcohol or drug testing after the expiration of an eight (8) hour period from:
 - i. The time of the observations or other events giving rise to the reasonable cause; or
 - ii. In the case of an accident/incident, the time a responsible railroad supervisor receives notice of the event providing the reasonable cause.
- c. In the case of a drug test, the 8-hour requirement is satisfied if the employee has been delivered to the collection site (where the collector is present) and the request has been made to commence collection of the urine specimen within that period.
- d. An employee may not be tested if that employee has been released from duty under the normal procedures of the railroad. An employee who has been transported to receive medical care is not released from duty for the purposes of this paragraph.
- e. If an alcohol test is not administered within two (2) hours following the determination that the test should be conducted, the responsible supervisor shall prepare and maintain on file a record stating the reasons the test was not administered. If a test is not administered within eight (8) hours following the determination, then the DATT shall cease attempts to administer an alcohol test and shall state in record the reasons for not administering the test.

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- f. In all cases where an employee is required to be tested for cause, a written report setting forth the facts upon which the reasonable cause is based shall be completed and signed by the supervisor(s).
- g. An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
- h. Any employee who tests positive for drugs or alcohol on a reasonable cause test will be discharged.

F. Post-Accident Testing

NJ TRANSIT Rail Operations shall have primary responsibility for insuring compliance with FRA-mandated Post-Accident Toxicological Testing for NJ TRANSIT. NJ TRANSIT Rail Operations will develop and implement detailed procedures, specific to its needs, to insure compliance with FRA's requirements.

In all cases where an employee is required to be tested based upon post-accident testing criteria, a written report setting forth the facts upon which the post-accident testing is based shall be completed and signed by the supervisor(s).

1. Events for which Testing is Required

Except as provided in Subsection 2 of this section, post-accident toxicological tests shall be conducted after any event that involves one or more of the circumstances described below:

- a. Major Train Accident, i.e., a train accident that involves one or more of the following:
 - i. A fatality
 - ii. Release of hazardous material lading from railroad equipment accompanied by:
 - An evacuation; or
 - A reportable injury resulting from the hazardous material release; or
 - Damage to railroad property of \$1,000,000 or more (as adjusted periodically by FRA).
- b. Impact Accident (as defined by Section III) resulting in:
 - i. A reportable injury; or
 - ii. Damage to railroad property of \$150,000 or more (i.e., rail equipment accident involving damage in excess of the current threshold).
- c. Fatal Train Accident, i.e., any train incident that involves a fatality to any on-duty railroad employee.
- d. Passenger Train Accident, i.e., an accident involving a reportable injury to any person in a train accident involving a passenger train.

2. Exceptions

No test shall be required in the case of either:

- a. A collision between railroad rolling stock and a motor vehicle or other highway conveyance at a rail/highway grade crossing; or

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- b. An accident/incident the cause and severity of which are wholly attributable to a natural cause (e.g., flood, tornado or other natural disaster) or to vandalism, as determined on the basis of objective and documented facts by an NJ TRANSIT Rail supervisor.

3. Employees Tested, Tests Performed and Exclusions

- a. Following each accident and incident described above, supervisors shall assure that each and every operating employee assigned as a crew member of any train involved in the accident or incident is tested. In all cases where an operator, dispatcher, signal maintainer or other covered employee is directly and contemporaneously involved in the circumstances of the accident/incident, those employees shall also be required to provide specimens. Supervisors shall assure that all covered employees involved in the accident or incident provide blood and urine specimens for toxicological testing by FRA.
- b. Supervisors may require employees to provide breath for testing in accordance with the procedures set forth in Section XIV of this policy, provided such testing does not interfere with or delay collection of the blood and urine specimens. (If a breath alcohol test is conducted, then the test result shall stand on its own, i.e., the blood and urine specimens collected for the post-accident test shall be considered as independent aids to the accident investigation, not as backups for the breath test results.) Supervisors may also require covered employees to provide urine specimens for reasonable cause testing if it does not interfere with or delay collection of FRA-mandated blood and urine specimens.
- c. An employee shall be excluded from testing in any case of an accident/incident for which testing is mandated only if the NJ TRANSIT representative can immediately determine, on the basis of specific information, that the employee had no role in the cause(s) or severity of the accident/incident. The NJ TRANSIT supervisor shall consider any such information available at the time the qualifying event determination is made.

4. Timely Specimen Collection

An employee who has been transported to receive medical care is not released from duty for purposes of this section. Covered employees who may be subject to testing shall be retained in duty status for the period necessary to make the determinations required in subsections 1 and 2 above and, as appropriate, to complete the specimen collection procedure.

5. Collection Site

Employees subject to testing shall be transported to an independent medical facility where the mandatory blood and urine specimens shall be obtained. An employee to be tested following an accident who is taken to a medical facility for observation or treatment shall be deemed to have consented to the release to NJ TRANSIT and the FRA of the following:

- a. The remaining portion of any body fluid specimen taken by the medical facility within 12 hours of the accident or incident that is not required for medical purposes, together with any normal medical facility record(s) pertaining to the taking of such sample.
- b. The results of any laboratory tests for alcohol or any drug tests conducted by or for the medical facility on such specimen.
- c. The identity, dosage and time of administration of any drugs administered by the medical facility prior to the time specimens were taken by the medical facility or prior

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to the time specimens were taken in compliance with this section.

- d. The results of any breath tests for alcohol conducted by or for the medical facility.

6. Timeliness and Report of Refusals

- a. If collection of specimens is not effected within four (4) hours following the accident or incident, the supervisor shall prepare and maintain on file a record stating the reasons the collection was not promptly effected.
- b. If the supervisor is unable, as a result of non-cooperation of an employee or for any other reason, to obtain specimens as required, the supervisor shall write a concise narrative report of the reason for such failure and, if appropriate, any action taken in response to the cause of such failure.

7. FRA Testing of Specimens and NJ TRANSIT Follow-Up

- a. Urine and blood specimens shall be collected in accordance with 49 CFR Part 219.205. Samples are tested for alcohol and controlled substances at an FRA-designated laboratory as specified by FRA under protocols established by FRA. Results of post-accident testing shall be reported directly to NJ TRANSIT's MRO.
- b. A test reported as positive for alcohol or a controlled substance by the FRA's designated laboratory shall be reviewed by NJ TRANSIT's MRO. The MRO shall promptly report, in writing, the results of each medical review to the FRA in accordance with the procedures outlined in 49 CFR Part 219.211. FRA is not bound by the MRO's determination, but that determination will be considered by FRA in relation to the accident/incident investigation and with respect to any enforcement action under consideration.
- c. An employee may respond in writing to the results of the test prior to the preparation of any final investigation report concerning the accident or incident. An employee wishing to respond shall do so by letter addressed to the Alcohol/Drug Program Manager, Office of Safety, FRA, 1120 Vermont Avenue, NW, Washington, DC 20590 within 45 calendar days of his receipt of the test results. Any such submission shall refer to the accident date, railroad and location, shall state the position occupied by the employee on the date of the accident/incident, and shall identify any information contained therein that the employee requests be withheld from public disclosure on grounds of personal privacy. The decision whether to honor such request shall be made by FRA on the basis of controlling law.
- d. Each specimen (including each split specimen) provided following an accident shall be retained by FRA's designated laboratory for not less than three (3) months following the date of the accident or incident and two (2) years from the date of the accident/incident in the case of a specimen testing positive for alcohol or a controlled substance.
- e. An employee may, within 60 calendar days of the date of the laboratory report, request that the employee's blood and/or urine sample be retested by FRA's designated laboratory or by another laboratory certified by the Department of Health and Human Services (DHHS). Any request for a retest shall be in writing, specifying the railroad, accident date and location, signed by the employee/donor, and addressed to the Associate Administrator for Safety, FRA, Washington, DC 20590, and designated "ADMINISTRATIVELY CONFIDENTIAL: ATTENTION ALCOHOL/DRUG PROGRAM MANAGER." The expense of any employee-requested retest at a laboratory other than the designated FRA laboratory shall be borne by the employee.

- f. An employee shall be removed from service without pay pending the outcome of the

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test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.

- g. Any employee who tests positive for drugs or alcohol on a post-accident test where it is determined by NJ TRANSIT that the employee was at fault will be discharged.

G. Return-to-Duty Testing

1. Testing negative on a return-to-duty drug and/or alcohol test is required of an employee prior to his being approved to return to duty from any of the following events.
 - a. Discipline resulting from a positive drug or alcohol test result
 - b. Discipline resulting from violation of any of the Standards of Conduct set forth in Section VIII
 - c. Returning to duty following a refusal to cooperate or tampering with, adulterating or substituting a specimen
 - d. Successful completion of NJ TRANSIT's EAP either under voluntary or mandatory participation.
2. An NJ TRANSIT SAP may require that an employee be administered a return-to-duty drug test even if the original infraction or substance abuse involved alcohol. Conversely, the SAP can require that an employee be administered a return-to-duty alcohol test even if the original infraction or substance abuse involved drugs.
3. Before a return-to-duty test is performed, an employee shall be evaluated by an NJ TRANSIT SAP to insure that the employee has followed the counseling and treatment recommendations.
4. An employee must have a verified negative drug test result or an alcohol test result of less than 0.020 to return to duty. If a drug and/or alcohol return-to-duty test result is canceled, the employee shall be required to submit to and pass another drug and/or alcohol test.
5. A mandatory EAP participant who tests positive on a return-to-duty test will be discharged in accordance with NJ TRANSIT's policy.

H. Unannounced Follow-Up Testing

1. An employee returned to duty under any of the conditions described in Section G above shall continue in any program of counseling or treatment recommended by the SAP and shall also be subject to unannounced follow-up drug and/or alcohol testing.
2. Employees who successfully complete the NJ TRANSIT voluntary or mandatory EAP will be subject to a program of unannounced follow-up testing for at least 12 months, but not more than 60 months, from the date of the employee's return to duty. The frequency, duration and nature of the follow-up testing shall be determined by NJ TRANSIT's SAP, but it shall consist of a minimum of six (6) tests in the first 12 months after the employee's return to duty. Employees who are subject to follow-up testing must cooperate with testing or be subject to the disciplinary action as outlined in Section X-B.
3. An employee who participates in an NJ TRANSIT mandatory EAP and who tests positive on any unannounced follow-up test will be discharged. A voluntary EAP or Rail Co-Worker Report participant who tests positive will be offered the opportunity to enter the EAP on a mandatory basis as authorized by Section XII-C below.
4. In accordance with NJ TRANSIT policy, an employee shall be subject to unannounced

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follow-up testing if the employee's primary drug specimen tests positive but the split specimen result is negative. In such a case, the employee shall be returned to duty and subject to unannounced follow-up testing during the next 90 days.

XII. EMPLOYEE ASSISTANCE

A. NJ TRANSIT's Employee Assistance Program (EAP)

1. It is the policy of NJ TRANSIT to encourage employees to voluntarily seek help prior to being discovered to be in violation of this policy. NJ TRANSIT provides EAP services for any employee troubled by alcohol or drug problems. EAP is an assessment, referral and rehabilitation program through which substance abuse professionals, provided by or through referral by NJ TRANSIT, counsel and treat employees affected by substance abuse problems. The SAP's also monitor the progress of employees in recovery and assist them in managing these problems that may affect job performance.
2. Employees entering EAP will be evaluated by a qualified NJ TRANSIT SAP/EAP counselor. The counselor will determine if the employee is affected by a psychological or physical dependence upon alcohol or drugs or by any other identifiable and treatable mental or physical disorder involving the use of alcohol or drugs.
3. Employees shall not be permitted to participate in the EAP more than twice for drug and/or alcohol problems under this and any previous policy, unless the third participation is voluntary and begins at least 10 years after the completion of the most recent previous participation.
4. The amount of time an employee will be excused from duty for EAP participation shall not exceed 90 calendar days per treatment unless the SAP/EAP counselor indicates further treatment is required. Employees entering EAP under voluntary or mandatory participation will be entitled to receive any sick pay, health benefits or vacation time to which they are entitled, provided that they continue to comply with the EAP-recommended treatment. After the expiration of earned sick time and/or available vacation time, the balance of any time off required to complete primary treatment and gain manageability over the substance abuse problem will be granted through an unpaid leave of absence. The absence, whether paid or unpaid, will be counted against any leave allowance for which the employee is eligible under the Family and Medical Leave Act.
5. NJ TRANSIT shall not offer the voluntary EAP or Rail Co-Worker options in a case where the seeking of assistance, referral or report is made in anticipation of, or with the effect of, anticipating the imminent and probable detection by a supervisory employee of a policy violation.
6. All treatment records will be held in confidence, with management being simply told that the employee remains medically not qualified for duty.
7. Employees who enter EAP, either voluntarily or mandatorily, must abide by and with the treatment plan. Employees who refuse to cooperate with EAP or who fail to successfully complete the program will be discharged from NJ TRANSIT.

B. Voluntary EAP Participation

1. NJ TRANSIT's EAP is open to all employees on a voluntary and confidential basis. It affords employees, affected by alcohol or drug use problems, the opportunity to maintain an employment relationship with NJ TRANSIT while seeking help before the employee has engaged in conduct deemed by NJ TRANSIT sufficient to warrant discipline. The employee may voluntarily seek assistance through NJ TRANSIT for treatment of the problem or be referred for such assistance by a supervisor, another employee or a representative of the employee's union.

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2. An employee who enters EAP voluntarily will not be disciplined on account of any admission that he has previously engaged in any prohibited behavior set forth in this policy, or on account of his entry into EAP.

C. Mandatory EAP Participation

1. An employee shall be eligible for mandatory EAP participation if he has not previously had a positive drug or alcohol test or been determined to have failed to cooperate with drug or alcohol collection or testing procedures (including adulterating, substituting or tampering with a specimen) and he tests positive for drugs or alcohol in any of the following circumstances:
 - a. A test upon transfer into a covered service position, or upon reinstatement in such a position
 - b. A test conducted as part of a periodic medical examination
 - c. A post-accident test where it is determined by NJ TRANSIT that the employee was not at fault
 - d. A random unannounced test
 - e. A return-to-duty test
 - f. An unannounced follow-up test.
2. If, after any applicable hearing procedure, an employee described in Section C-1 above is determined to have violated NJ TRANSIT's policy, the employee shall be discharged unless he agrees to enter EAP and successfully complete any recommended course of treatment. If the employee agrees to enter EAP he shall be suspended without pay for 30 calendar days. The suspension shall be served concurrently with the employee's EAP participation.
3. An employee who has already participated twice in NJ TRANSIT's EAP for drug and/or alcohol problems shall not be offered a third opportunity under this section, but shall be discharged.
4. An employee who has previously had a positive drug or alcohol test or previously been determined to have refused to cooperate with collection or testing shall be discharged in accordance with NJ TRANSIT's policy.
5. Positive drug and/or alcohol tests under all prior versions of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy shall be considered previous positive tests for purposes of this section.

D. EAP Return to Work Requirements

1. Employees must cooperate with and successfully complete any treatment recommended by the SAP, including any treatment plan for the period after they are returned to duty.
2. Any SAP referral and subsequent handling, including counseling and treatment, is treated as confidential, except confidentiality is deemed waived if:
 - a. The employee at any time refuses to cooperate in a recommended course of counseling or treatment; or
 - b. The employee is subsequently involved in a disciplinary offense and, after an investigation, it is determined that the employee violated any drug and/or alcohol prohibitions.

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XIII. DRUG TESTING PROCEDURES

E. Drugs Tested

Urine specimens shall be tested for the following drugs or their metabolites: marijuana, cocaine, opiates (i.e., morphine, codeine), phencyclidine (PCP) and amphetamines (i.e., methamphetamine).

F. Preparation for Collection

NJ TRANSIT and its certified drug-testing laboratory shall maintain clear and well-documented procedures for the collection, shipment and accessioning of urine specimens. Collection procedures shall include:

1. Use of a clean, single-use collection cup or collection container(s) that is securely wrapped until filled with the specimen; and
2. Use of a tamper-evident sealing system for specimen bottles; and
3. Use of a standard Drug Testing Custody and Control Form (CCF); and
4. Use of a shipping container in which specimens and associated paperwork can be placed.

NJ TRANSIT will provide written procedures, instructions and training on the collection process to certified collectors.

C. Specimen Collection

1. Urine specimens shall only be collected by certified collectors.
2. A person with direct management or supervisory responsibility over the employee to be tested, or a co-worker of the employee to be tested, may not serve as the collector for a urine test.
3. Urine specimens shall only be collected at secure, designated collection sites which have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage and shipping or transportation of specimens to a certified drug testing laboratory.
4. Precautions shall be taken by the collector to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine bottle and on the CCF can identify the individual from whom the specimen was collected.
5. Upon notification of testing, individuals are required to remain available until the completion of the collection process. Individuals are required to provide at least 45 ml of urine under the split sample method of collection described below. If the individual is unable to provide at least 45 ml, the DATT shall instruct the individual that he may drink a maximum of 40 ounces of fluids over the course of three hours. The individual shall again attempt to provide a complete specimen. If the individual fails for any reason to provide 45 ml of urine within three hours, the test shall be discontinued and the DATT shall direct the individual to report to Medical Services for an evaluation by the MRO. The MRO may direct the employee to another physician with expertise in the appropriate medical discipline to determine if the employee's failure to provide a sufficient specimen is valid or constitutes a refusal to cooperate with a drug test. Based on this medical evaluation, the MRO or designated physicians shall report their conclusions in writing to NJ TRANSIT's DER.
6. If an individual refuses to cooperate with the collection process, the DATT must inform the appropriate supervisor and document the non-cooperation on the CCF.

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7. The chain of custody block of the CCF shall be properly executed by the DATT upon receipt of a specimen. Handling and transportation of specimens from one authorized individual or place to another, including handling at the laboratory, shall always be accomplished through chain of custody procedures. However, since specimens are sealed in packages that would indicate any tampering during transit to the laboratory and because couriers, express carriers and postal service personnel do not have access to the CCF, such personnel need not document chain of custody during transit.
8. Specimens shall be placed in containers designed to minimize the possibility of damage during shipment to the laboratory and shall be securely sealed to eliminate the possibility of undetected tampering.
9. In any case where an employee has sustained a personal injury and is subject to drug testing, necessary medical treatment shall be accorded priority over the provision of body fluid specimens. No employee who is unable to urinate normally as a result of personal injury or resulting medical treatment shall be required to provide a urine specimen. However, an employee who has been transported to receive medical care is not to be considered released from duty for the purpose of compliance with this policy.
10. Any specimen suspected of having been adulterated, substituted or diluted shall be forwarded to the laboratory for testing.
11. Employees will be required to supply another sample as soon as possible and without prior notification if the specimen is reported as being dilute by the laboratory. The first collection result will be canceled; the second collection result is the test on which NJ TRANSIT will rely.

D. Split Specimen

A minimum of 45 ml of urine is required for the split specimen procedure to be utilized under this policy. The urine specimen must be split and poured into two (2) specimen bottles, "A" and "B". Thirty (30) ml shall be poured into bottle "A", to be used as the primary specimen. At least 15 ml shall be poured into the other bottle ("B"), to be used as the split specimen. Both bottles shall be forwarded to the laboratory. In the event that a split sample or bottle "B" is unavailable, the provisions of Section G (6) below will apply.

E. Observed Collections

1. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. The following circumstances are the only grounds constituting reason to believe that an individual may alter or substitute a specimen.
 - a. The employee has presented a urine specimen that falls outside the normal temperature range of 90 to 100 degrees Fahrenheit; or
 - b. The DATT observes conduct clearly and unequivocally indicating an attempt to tamper with, substitute or adulterate the specimen or an attempt to bring an adulterant or a substitute urine specimen into the collection site; or
 - c. The urine specimen provided by the employee on the most recent previous occasion was determined by the laboratory and confirmed by the MRO to be invalid, substituted, or adulterated or the test result had to be canceled because the test of the split sample could not be performed.
 - d. The employee has previously been determined to have used a drug without medical authorization and the particular test is being conducted as part of a rehabilitation program on return to duty after any required rehabilitation; or under any USDOT

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agency regulation providing for follow-up testing upon or after return to duty.

- e. When the MRO receives a laboratory report that a specimen was dilute with a creatinine concentration greater than or equal to 2 ml/dl and less than or equal to 5 ml/dl.
2. A supervisor of the DATT shall review and concur in advance with any decision by a DATT to obtain a specimen under direct observation. The direct observation must be performed by a DATT of the same gender as the employee or applicant being tested. The DATT's supervisor shall select the observer if there is not a DATT of the same gender available.
3. The DATT must indicate in the "Remarks" section of the CCF that the collection took place under direct observation and the reason for doing so, as well as indicating who did the observation.

F. Laboratory Testing

1. Laboratory

Urine specimens shall be analyzed by a laboratory certified under the Department of Health and Human Services' (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs. The laboratory shall be secure at all times and shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage and continuing until final disposition of specimens. NJ TRANSIT's laboratory is identified in Exhibit 2 hereto.

2. Initial Test of Primary Specimen

The laboratory shall use as an initial test an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution, and shall use the following cut-off levels:

Initial test level (ng/ml)

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

* 25 ng/ml if immunoassay specific for free morphine

The laboratory shall also conduct validity tests to determine if the specimen has been adulterated, substituted or diluted, and if so, identify the adulterant(s) used.

Laboratories are to report substituted samples by documenting on copy #1 of the CCF the specific gravity and creatinine concentration. Specimens with creatinine levels less than 2 ml/dl are to be reported to the MRO as substituted. Specimens with creatinine levels 2 ml/dl to 5 ml/dl will require a collection to be provided immediately under direct observation.

3. Confirmation Test of Primary Specimen

All primary specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) at the following cut-off levels:

Confirmation test level (ng/ml)

Marijuana metabolite ¹	15
Cocaine metabolite ²	150

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Opiates:
Morphine 2,000
Codeine 2,000
Phencyclidine 25
Amphetamines:
Amphetamine 500
Methamphetamine 500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid

² Benzoylcegonine

All opiates confirmed positive will undergo an additional test for 6-acetylmorphine at a level of 10 ng/ml.

To be confirmed positive for amphetamines, the specimen must also contain amphetamine at a level of ≥ 200 ng/ml.

G. Test of Split Specimen

1. Under NJ TRANSIT and federal regulations, an employee or final applicant for employment has the option of having an analysis of the split specimen performed at a different DHHS-certified laboratory should the primary specimen test result be verified positive or identified as having been adulterated or substituted.
2. The MRO shall notify each individual who has a verified positive drug test or whose sample has been determined to have been adulterated or substituted that the individual has 72 hours in which to request a test of the split specimen. If the individual requests in writing a test of the split specimen within 72 hours of having been informed of a verified positive test or an adulterated or substituted sample, the MRO shall direct, in writing, the laboratory to ship the split specimen to a different DHHS-certified laboratory for testing. Any transfer of a specimen between laboratories must be accomplished in accordance with chain of custody procedures.
3. The testing of the split sample will be conducted consistent with federal regulations. NJ TRANSIT requests an individual seeking a test of a split specimen to be responsible for the cost of any transfer of the split specimen and the cost of the test, unless the test fails to reconfirm the positive result or adulterated or substituted specimen. The MRO must receive a copy of the results from the split sample testing.
4. Because some analytes deteriorate or are lost during freezing or storage, quantification for a test of a split specimen is not subject to a specific cut-off requirement, but must provide sufficient data to confirm the presence of the drugs or metabolites. In the case of multiple confirmed positive results in the primary sample, the test of the split sample must provide sufficient data to confirm the presence of at least one of the drugs or metabolites found in the primary sample.
5. In accordance with NJ TRANSIT policy, if the result of the test of the split specimen fails to reconfirm a positive result or an adulterated or substituted specimen or is reported as negative, the original test shall be canceled and the employee may be returned to duty with back pay, but shall be subject to unannounced follow-up testing during the next 90 days. The MRO must report the failure to reconfirm to the Department of Transportation as per Appendix D of 49 CFR Part 40.
6. Split samples are always to be collected. If for some reason, the split specimen or bottle "B" is lost, spilled or otherwise unavailable, the laboratory will:
 - a. Test the primary sample; and
 - b. Report the results of the primary sample to the MRO; and
 - c. Report the original test as canceled.

If the primary sample is reported as a verified positive, adulterated or substituted test, a

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second sample is to be collected under direct observation. The results of the second collection will be final.

H. Quality Assurance

1. The drug testing laboratory shall have a quality assurance program which encompasses all aspects of the drug testing process including, but not limited to, specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, certification of calibrators and controls, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented and reviewed to monitor the conduct of each step of the process of testing for drugs.
2. In addition, there shall be laboratory quality control requirements for both initial and confirmation tests.
3. Blind samples shall be randomly intermingled by NJ TRANSIT and sent to the testing laboratory with individual specimens. They will be analyzed in the same manner to ensure the accuracy of the laboratory-testing program.

I. Confirmation and Verification Process

1. Drug test results reported positive, substituted, adulterated or invalid by the laboratory shall not be deemed positive or disseminated to any person (other than to the employee in a medical interview with the MRO, if conducted) until they are reviewed and verified by an MRO. The MRO shall review all drug test results reported positive, substituted, adulterated or invalid by the laboratory. The review will include:
 - a. Verifying the chain of custody to ensure that it is complete and sufficient on its face; and
 - b. Verifying that the laboratory report and assessment of all drug test results are reasonable; and
 - c. Examining alternate medical explanations for positive, substituted, adulterated or invalid drug test results; and
 - d. Giving all individuals (applicants and employees) an opportunity to discuss the test results with the MRO prior to his making a decision to verify a positive, substituted, adulterated or invalid result.
2. In the case of an adulterated, substituted or invalid test, the individual is responsible for obtaining an explanation and demonstrating there is a link between the alleged reason and the ability to physiologically produce the laboratory result obtained. The proof must be presented within five (5) days after the MRO review. Employees will not be permitted to perform covered service during this review period and until any additional testing has been completed. Employees will be returned to duty with back pay, if the MRO determines the test to be negative on the basis of the information or documentation the employee has supplied.

J. Contact Procedures

1. The MRO or qualified staff person under the MRO's supervision will contact the individual directly in a confidential manner to arrange for the individual to discuss the test results with the MRO. Only the MRO can discuss the test results with the individual. The MRO can, however, verify a test as positive without having communicated directly with the individual about the test in three circumstances:
 - a. The individual expressly declines the opportunity to discuss the test.
 - b. Neither the MRO nor the DER has been able to contact the individual within ten (10) days of the date on which the MRO receives the confirmed positive test result from the laboratory, after making all reasonable efforts. ("All reasonable efforts" means

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that the MRO or designate must make and document at least three (3) attempts within a 24-hour period to contact the individual. If the MRO or designate have been unable to contact the individual, the DER will make and document at least three (3) further attempts within a second 24-hour period to contact the individual. If the DER's attempts are unsuccessful, a message can be left for the individual by voice mail, electronic mail or a letter instructing the individual to contact the MRO. The DER must inform the MRO of the dates and times of his attempts to contact the individual).

- c. The DER has successfully made and documented a contact with the individual and instructed the individual to contact the MRO; more than 72 hours have passed since the individual was contacted by the DER and advised of the consequences of failing to contact the MRO within 72 hours.

K. Reevaluation Procedures

1. A laboratory-confirmed positive, substituted, adulterated or invalid test can be reevaluated by the MRO if the individual provides documented proof to the MRO within 60 days of the verification that a serious illness, injury or other circumstance beyond the individual's control prevented contact with the MRO within the specified time frame.

The MRO may change a verified positive drug test or a refusal to test in the following situations:

- a. A verification done without an interview with an employee is reopened.
- b. Information, not available at the time of the original verification, is received which demonstrates there is a legitimate medical explanation for the drug/metabolite in the employee's specimen or evidence that a legitimate explanation for an adulterated or substituted specimen result exists.

XIV. ALCOHOL TESTING PROCEDURES

A. Evidential Breath Testing Device (EBT)

1. Alcohol testing shall be conducted using an evidential breath testing device (EBT) which shall be selected from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the Federal Register from time to time by the National Highway Traffic Safety Administration (NHTSA) of the USDOT.
2. Each device shall have a manufacturer-developed quality assurance plan approved by NHTSA that specifies a designated method to perform external calibration checks; minimum intervals for performing external calibration checks; tolerances; and inspection, maintenance and calibration requirements and intervals for the device.

B. Drug and Alcohol Testing Technician (DATT)

1. Alcohol testing shall be conducted by a DATT, who is proficient in the use of the EBT and in alcohol testing procedures. The DATT shall have successfully completed a USDOT-approved course of instruction and demonstrated competence in the operation of the device and use of the breath alcohol calibrating unit.
2. The supervisor of an employee to be tested for alcohol shall not serve as the DATT for that employee's test.

C. Alcohol Testing Site

The DATT shall conduct the test in a manner that provides the employee with privacy to the greatest extent practicable. The testing site shall be secured by the DATT, with no unauthorized access at any time the EBT is unsecured or when testing is occurring. The DATT shall conduct only one test at a time and must remain at the testing site while the preparations for testing or the test itself are in progress.

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D. Priority of Medical Treatment over Testing

In any case where an employee has sustained a personal injury and is subject to alcohol testing, necessary medical treatment shall be accorded priority over the provision of breath samples. However, an employee who has been transported to receive medical care is not to be considered released from duty for purposes of this policy.

E. Screening Test

If the result of the EBT screening test is an alcohol concentration of less than 0.020, no further testing will be conducted.

F. Confirmation Test

1. If the result of the screening test is an alcohol concentration of 0.020 or greater, a confirmation test shall be performed. The confirmation test must be conducted not less than 15 minutes, but not more than 30 minutes, after the completion of the initial test.
2. Before the confirmation test is administered, the DATT shall conduct an air blank on the EBT. If the reading is greater than 0.00, the DATT shall conduct one more air blank. If the second air blank reading is greater than 0.00, that EBT shall not be used to conduct the test.
3. If the initial and confirmatory test results are not identical, the confirmation test result shall be deemed to be the final result. If the result displayed on the EBT itself is not the same as that on the printed form produced by the EBT, the test shall be canceled and the EBT removed from service. A second confirmation must be conducted using a different EBT. Documentation regarding the incident is to be completed.
4. No individual shall be deemed to have tested positive for alcohol in violation of this policy unless a confirmed breath test of at least 0.040 is obtained.
5. Any employee whose confirmation test result is between 0.020 and 0.039 will be considered unavailable for work under NJ TRANSIT policy and referred to his supervisor for appropriate action, including discipline.

G. Uncompleted Tests and Refusal to Test

1. If a screening or confirmatory test cannot be completed for any reason the DATT shall, if practical, begin a new test.
2. Refusal by an individual to complete and sign step 2 of the ATF, to provide an adequate amount of breath, or otherwise to cooperate with the collection process shall be noted on the ATF and the test shall be terminated. Refusal to sign Step 4 is not considered a refusal to test. Step 4 does not need to be signed if the confirmation or screening test result is less than 0.020.
3. If an individual attempts but fails to provide an adequate amount of breath, the DATT shall inform the DER. The DATT shall order the individual to the Company doctor for an evaluation. The Company doctor may refer the employee to a physician with expertise in the appropriate medical discipline to determine if the employee's failure to provide an adequate amount of breath specimen is valid or constitutes a refusal to cooperate with a breath test. The physician(s) shall report their conclusions in writing to NJ TRANSIT's DER. An employee's failure to comply with a request to obtain additional information or to appear for the required evaluation is considered a refusal to cooperate with testing.
4. An individual will be given only two (2) opportunities to provide a breath sample.

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XV. SUBSTANCE ABUSE PROFESSIONALS (SAP)

A. The SAP shall carry out the following responsibilities.

1. Advise each individual who has an alcohol concentration of 0.040 or greater, or who has a verified positive drug test result, or who has refused to submit to an alcohol or drug test of the resources available to evaluate and resolve problems associated with alcohol misuse or drug abuse, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.
2. Evaluate whether each employee who tested positive for drugs or alcohol and wants to return to work has properly followed the SAP's recommendation for treatment.
3. Determine the type of testing (i.e., drug and/or alcohol) that a returning employee shall be subject to on return-to-duty and/or follow-up testing.
4. Determine the frequency and number of tests a returning employee shall be subject to as part of follow-up testing after returning to duty.

XVI. EMPLOYEE DRUG AND ALCOHOL ABUSE EDUCATION AND SUPERVISOR TRAINING

A. Employee Education

1. NJ TRANSIT's EAP, with the assistance of the appropriate departments, will educate all employees about the dangers of alcohol and drugs, their effects and consequences. The education program will help motivate employees to understand the problems associated with abusing alcohol and drugs and the ways such abuse will compromise their personal functioning, as well as their functioning on the job. To accomplish this objective, a number of approaches will be taken to include the following.
 - a. Displays and/or direct mailings to all employees of pertinent information on substance abuse
 - b. Orientation for all employees on EAP and opportunities for treatment and rehabilitation
 - c. Education modules will be provided as part of regularly scheduled safety meetings, rule review sessions and other regular or special meetings, to include discussions on the rationale for NJ TRANSIT's program the reliability of drug and alcohol testing, the circumstances where disciplinary action will be taken for failure to comply with this policy and applicable requirements to assure the confidentiality of patient records for the protection of the employee's physician-patient relationship and the employee's medical history
 - d. An educational component for employees in covered service positions, which includes information on the effects and consequences of alcohol and drug abuse on personal health, safety and the work environment, and the manifestations and behavioral cues that may indicate substance use and abuse
 - e. Display and distribution of a hot-line telephone number for employee assistance for substance abuse problems, and
 - f. Distribution of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy to all NJ TRANSIT employees.

B. Supervisor Training

Each supervisor shall be trained in the signs and symptoms of alcohol and drug impairment and misuse. The program shall, at a minimum, provide information concerning the acute behavioral and physiological effects of alcohol and the major drug groups on the controlled substances list.

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C. Communication of Policy to Employees

All employees of NJ TRANSIT and new hires, prior to commencing employment, will be given a copy of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy and required to sign a dated receipt therefor.

XVII. RECORDS AND RECORD KEEPING

A. Confidentiality and Access to Records

Drug and alcohol test results may be released only under the following circumstances:

1. Upon written request, NJ TRANSIT shall promptly provide any employee with any records relating to his test.
2. No drug or alcohol test results may be released by NJ TRANSIT to a third party (except as provided for in subsection 3 below) unless the individual tested signs a specific authorization for the release of the results to an identified person. A copy of a verified positive drug test result or of a positive alcohol test result will be provided to the employee's union representative upon the employee's written request. No records of information or test results shall be used or disseminated by or within NJ TRANSIT and its subsidiaries for any purpose other than for providing for compliance with this policy without the voluntary written consent of the employee. Such written consent shall specify the person to whom the information may be provided. Drug and alcohol test results will not be voluntarily disclosed to law enforcement agencies or officials, except as provided for in Section X-B.2 above.
3. NJ TRANSIT may disclose information related to a test result to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
4. When requested, NJ TRANSIT shall release information to the National Transportation Safety Board (NTSB) about a test performed as a result of an accident under NTSB investigation; or to the Secretary of Transportation or to any USDOT agency with regulatory authority over NJ TRANSIT or its employees; or to a State oversight agency with regulatory authority over NJ TRANSIT.
5. NJ TRANSIT shall also permit the Secretary of Transportation or any USDOT agency with regulatory authority over NJ TRANSIT or any of its employees access to all facilities utilized in complying with the requirements of this policy.
6. Test results can be released for a criminal or civil proceeding only if the court orders it and only to the parties involved in the proceedings.

B. Record Keeping

Records on program administration and the test results of individuals shall be maintained in accordance with 49 CFR Parts 219.903 and 219.901. Records shall be maintained in a confidential and secure manner. If NJ TRANSIT contract services are involved, NJ TRANSIT management shall document oversight/compliance activities designed to ensure that the contractor's records are accurate and current and that they fully comply with FRA regulations.

XVIII. REPORTING

NJ TRANSIT shall file annual reports summarizing test results with FRA. The standard Management Information System (MIS) reports that must be used are contained in 49 CFR Part 40, Appendix H. NJ TRANSIT shall also submit annual MIS reports to FRA on its contractors whose employees perform covered service functions and are, therefore, covered by FRA regulations.

XIX. CERTIFICATIONS

NJ TRANSIT shall certify annually to FRA compliance with the requirements of 49 CFR Parts 219 and 225

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using language contained therein. Certification means a written statement, authorized by NJ TRANSIT's governing board or other authorizing official that NJ TRANSIT has complied with the provisions of Parts 219 and 225.

XX. AUTHORITIESA. Federal Regulations

1. Department of Transportation, Office of the Secretary, 49 CFR Part 40 – Procedure for Transportation Workplace Drug Testing Programs.
2. Department of Transportation Rules, Federal Railroad Administration, and 49 CFR Parts 217 and 219 Random Drug Testing: Amendments to Drug/Alcohol Final Rule.
3. Department of Transportation, 49 CFR Part 29, Government-Wide Requirements for Drug-Free Workplace Acts of 1988 (Grants).
4. Department of Transportation, Federal Railroad Administration, 49 CFR Part 219, Alcohol/Drug Regulation Rules.
5. Department of Transportation, Federal Railroad Administration, 49 CFR Part 225, Railroad Accidents/Incidents: Report Classification and Investigation Rules.
6. Department of Transportation, Federal Railroad Administration, 49 CFR Part 218, Railroad Operating Practices, Rules.

B. State Regulations

Executive Order 204, March 18, 1989

XXI. CROSS-REFERENCESCorporate-Wide Policy and Procedures

- 3.16 Employee Discipline
- 3.25 NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Employees not covered under Policies 3.25A/B/C)
- 3.25A NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Safety-sensitive employees subject to FTA regulations)
- 3.25C NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Safety-sensitive employees subject to FMCSA regulations)

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Covered Service Positions

- Conductor
- Assistant Conductor
- Locomotive Engineer
- Assistant Engineer
- Signal Maintainer
- Lead Maintainer
- Maintainer Test
- Inspector
- Technician/Inspector
- Electrician Responsible for Maintaining & Testing Cab Signals*
- Electronic Technician
- Electronic Specialist
- Yardmaster
- Train Dispatcher
- Block Operator
- Block Operator/Leverman
- Bridge Operator
- Director Terminal Tower
- Assistant Director Terminal Tower

* Electricians in jobs not responsible for cab signal maintenance and testing are subject to the requirements and provisions of Policy No. 3.25.

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Contacts

AED, Human Resources (973) 491-8533
 NJ TRANSIT Headquarters
 1 Penn Plaza East
 Newark, NJ 07105-2246

Director, Employee Assistance Programs 1-800 338-2673
 2 South Avenue East (908) 272-4256
 Suite 2 – 2nd Floor
 Cranford, NJ 07016

Director, Medical Services, (973) 378-6432
 Training & Employee Development
 180 Boyden Avenue
 Maplewood, NJ 07040

Supervisor, Drug & Alcohol Program (973) 378-6554
 180 Boyden Avenue
 Maplewood, NJ 07040

Medical Review Officer (973) 378-6072
 Gail Olabisi, MD
 180 Boyden Avenue
 Maplewood, NJ 07040

NJ TRANSIT's other MRO's can be reached at the following three locations:

Hoboken Terminal	Camden Transportation Center
1 Hudson Place	Newton Avenue General Office Building
Hoboken, NJ 07030	350 Newton Avenue
(201) 714-2884	Camden, NJ 08103
	(856) 968-3981

Egg Harbor Medical Services
 Egg Harbor Garage
 1431 Doughty Road
 Egg Harbor, NJ 08234
 (609) 407-2427

Laboratory Services

Lab One, Inc.
 10101 Renner Boulevard
 Lenexa, KS 66219-9752
 (800) 728-4064



CORPORATE-WIDE POLICY AND PROCEDURE

NUMBER

3.25C

EFFECTIVE DATE

6/1/04

35559

SUPERSEDES

3.25C 03/18/99

KEY SUBJECT

Drug & Alcohol Abuse

MANUAL

SOURCE

Human Resources

Human Resources

TITLE

DRUG- AND ALCOHOL-FREE WORKPLACE POLICY

APPLIES TO

All NJ TRANSIT employees who perform safety-sensitive functions and are covered by Federal Motor Carrier Safety Administration (FMCSA) regulations

APPROVAL(S)

Where the use of gender specific pronouns would have led to very awkward sentences, we have used the masculine pronoun. This use should be considered to refer to both genders.

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I. PURPOSE

This document outlines NJ TRANSIT's policy to achieve a drug- and alcohol-free workplace. The purpose of this policy is to ensure that NJ TRANSIT operates in the safest and most efficient manner possible, and to promote the safety and welfare of our employees and customers by creating a drug- and alcohol-free workplace and ensuring that our employees are free from the effects of drugs and alcohol.

This document outlines those requirements of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy, which are applicable only to NJ TRANSIT employees who perform safety-sensitive functions as defined herein and are covered by Federal Motor Carrier Safety (FMCSA) regulations.

II. NJ TRANSIT'S DRUG- AND ALCOHOL-FREE WORKPLACE PROGRAM

NJ TRANSIT's goal to achieve a drug- and alcohol-free workplace shall be accomplished through the implementation of a comprehensive anti-drug and alcohol program based on deterrence, detection, assistance and enforcement. The program objectives in support of this goal are to prevent drug and alcohol abuse, to assist employees who seek help, to detect drug and alcohol abuse and to enforce NJ TRANSIT's policy.

The above objectives shall be accomplished by:

- Providing educational material that explains the requirements of NJ TRANSIT's policy and procedures
- Educating employees about the impact that drug and alcohol use, both on and off the job, can have on job performance, health and safety
- Offering an employee assistance program and encouraging affected employees to seek help voluntarily as well as encouraging referral of employees for such assistance before job performance deteriorates
- Training for supervisors to detect the signs and symptoms of drug and alcohol abuse
- Screening employees for drugs and alcohol both prospective to and during employment, and
- Enforcing NJ TRANSIT's drug- and alcohol-free workplace policy and imposing discipline when prevention and deterrence fail.

III. DEFINITIONS

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

- An individual dies; or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;
- One or more of the vehicles involved incur(s) disabling damage* and is transported away from the scene by a tow truck or other vehicle.

**Disabling damage is damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged, if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement without other damage even if no spare tire is available; or damage to headlights, taillights, turn signals, horn or windshield wipers that makes them inoperative.*

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

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of gram alcohol per 210 liters of breath as indicated by a breath test, or the alcohol as measured by grams of alcohol per 100 ml. of blood.

Alcohol Use - The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Canceled Test – A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which 49 CFR Part 40 otherwise requires. A canceled test is neither a positive nor a negative test.

Confirmation (or Confirmatory) Test - In drug testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. In alcohol testing, a second test, following a screening test with a result of 0.020 or greater, which provides quantitative data of alcohol concentration.

Commercial Driver's License – A license, issued to an individual by a State or jurisdiction in accordance with the standards contained in 49 CFR Part 383, which authorizes the individual to operate a class of commercial motor vehicle.

Commercial Motor Vehicle – A motor vehicle or combination of motor vehicles that meets the gross weight/size criteria specified in 49 CFR Part 383 and is used in commerce to transport passengers or property.

Contractor or Vendor - A person or organization that provides a service for a recipient, sub-recipient, employer or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties. A contractor or vendor will adhere to all applicable federal rules and FMCSA regulations as defined by this policy.

Controlled Substance – Defined by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR 1301-1316). It also includes illicit drugs, drugs that are required to be distributed only by a medical practitioner's prescription or other authorization, and certain preparations for which distribution is documented through over-the-counter sales.

Covered Employee – A person, applicant or transferee who is subject to the Commercial Driver's Licensing (CDL) requirements of the Commercial Motor Vehicle Safety Act of 1986, U.S.C. Chapter 313 and who performs safety-sensitive functions as defined by the FMCSA.

Criminal Drug Statute – A federal or state criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

Designated Employer Representative (DER) – An employee authorized by the employer to initiate immediate action(s) to remove employees from duty and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Part 40. The DER's for NJ TRANSIT is the senior management official responsible for Medical Services or his designate.

Diluted Specimen – A specimen is considered diluted if the creatinine concentration is less than 20 mg/dl, but not less than 2 mg/dl, and the specific gravity is less than 1.003.

Drug - Any substance (other than alcohol) that has known mind- or function-altering effect on a human subject, specifically including any psychoactive substance and including, but not limited to, controlled substances.

Drug and Alcohol Testing Technician (DATT) – A licensed medical professional or medical technologist or technician who is provided instruction for specimen collection under 49 CFR Part 40 and who performs the collection and certifies completion as required therein; or a person who has successfully completed training as a collector as required by 49

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CFR Part 40. (NJ TRANSIT's collection site person will generally be referred to as a DATT. However, "DATT", "collector" and "collection site person" have the same meaning for purposes of this policy.)

Employee – An individual designated as subject to drug and/or alcohol testing under this policy. "Employee", "individual", "individual to be tested" and "donor" have the same meaning for purposes of this policy.

Federal Motor Carrier Safety Administration (FMCSA) – An agency within the US Department of Transportation (USDOT).

Invalid Test - In drug testing, a drug test that has been declared invalid by a Medical Review Officer. It is neither a verified positive nor negative test, and includes a specimen rejected for testing by a laboratory. In alcohol testing, a test that is deemed invalid under the criteria found in 49 CFR Part 40.267 or 269. It is neither a positive nor a negative test.

Medical Review Officer (MRO) – An MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to review and interpret individuals' confirmed positive drug test results from the laboratory together with their medical histories and any other relevant biomedical information to determine if there is evidence of prohibited drug use. Information regarding NJ TRANSIT's MRO's can be found in Exhibit 1 hereto.

Performing a Safety-Sensitive Function – Any period in which a covered employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive function as defined in 49 CFR Part 382.107. This includes all time from the time a covered employee begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work.

Positive Alcohol Test - A confirmation test with an alcohol concentration result of 0.040 or greater.

Possess - To have on one's person or in one's personal effects or under one's control.

Prohibited Drug - Marijuana, cocaine, opiates, amphetamines or phencyclidine.

Rail Accident/Incident – An accident or incident, including a personal injury, reportable to the Federal Railroad Administration under 49 CFR Part 225.

Refusal to Submit to a Test - Failure to provide adequate breath for alcohol testing or a urine or blood specimen for drug testing, as required, without a valid medical explanation, after an employee has received notice of the requirement to be tested in accordance with the provisions of this policy. Failure to cooperate with DOT requirements to complete forms, including the alcohol testing form and chain of custody form, or engaging in conduct that clearly obstructs the testing process.

Split Specimen – In drug testing, a part of the urine specimen that is sent to the certified laboratory shown in Exhibit 2 and retained unopened, and which is transported to a second laboratory if the employee requests that it be tested following a verified positive test or a verified adulterated or substituted test result of the primary specimen.

Subject to Duty - Any time period an employee is required to be available to report for duty.

Substance Abuse Professional (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), or a 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), with knowledge of and clinical experience in the diagnosis and treatment of drug- and alcohol-related disorders.

Substituted Specimen or Test - A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine (i.e., a creatinine concentration less than 5 mg/dl and specific gravity less than 1.001 or greater than or equal to 1.020).

Supervisor or Supervisory Employee – An officer, special agent or other employee, whether or not directly employed by NJ TRANSIT, who is responsible for supervising or monitoring the conduct or performance of one or more NJ TRANSIT employees.

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Validity Testing - Specimen validity testing is the evaluation of a 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.

Vehicle - An automobile, truck, van or commercial motor vehicle

Verified Negative Drug Test Result - A drug test result reviewed by an MRO and determined not to be evidence of use of a prohibited drug.

Verified Positive Drug Test Result - A drug test result reviewed by an MRO and determined to be evidence of use of a prohibited drug.

Workplace - Any location, including but not limited to, equipment, garages, depots, terminals, stations, offices, vehicles, buses, trolleys or trains, whether or not owned, leased or operated by NJ TRANSIT, where NJ TRANSIT business is conducted or where NJ TRANSIT job duties are performed.

IV. PREEMPTION OF STATE AND LOCAL LAWS

- A. FMCSA regulations upon which this addendum is primarily based preempt any state or local law, rule, regulation or order when:
1. Compliance with both the state or local requirement and any requirement of FMCSA regulations is not possible; or
 2. Compliance with the state or local requirement is an obstacle to accomplishing and executing any requirement of the regulations.
- B. However, the regulations do not preempt any provisions of state criminal law that impose sanctions for reckless conduct leading to loss of life, injury or damage to property.

V. POLICY SCOPE AND APPLICATION

- A. It is the policy of NJ TRANSIT to comply with the requirements of the Drug-Free Workplace Act of 1988, the drug and alcohol rules promulgated by FMCSA and any other applicable federal or state laws and regulations.
- B. If any section of this policy is invalidated as contrary to any law, the remaining sections shall remain in full force and effect.
- C. The provisions of this policy shall be subject to any limitations or requirements imposed by federal or state law. Moreover, any employment action taken by NJ TRANSIT due to violation of this policy shall be taken in accordance with the procedures contained in any applicable labor agreement.
- D. This policy is a statement of NJ TRANSIT's current official policy and as such supersedes all prior drug and alcohol policy statements, directives and memoranda of NJ TRANSIT.
- E. As a condition of employment, this policy applies to all NJ TRANSIT employees except as noted otherwise herein or as found in Policies 3.25, 3.25A and 3.25B. NJ TRANSIT management will ensure that this policy is implemented uniformly throughout the agency.

VI. EMPLOYEES SUBJECT TO TESTING

- A. All employees who are required to have a CDL and who perform safety-sensitive functions for NJ TRANSIT covered by FMCSA regulations are subject to the testing requirements of this policy. A list of NJ TRANSIT job titles covered by this policy appears in Exhibit 1 hereto.

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NOTE: Depending upon the type of equipment being operated and the location where the work is being performed, not every position within the job classifications listed in Exhibit 1 requires a CDL. In cases where a CDL is not a requirement of the particular position an employee holds, the employee is subject to the requirements of Policy No. 3.25 rather than this policy.

- B. Employees who perform safety-sensitive functions under FMCSA regulations are required to be tested for drugs and/or alcohol in the following circumstances: pre-employment, reasonable suspicion, post-accident, random, return-to-duty and follow-up.
- C. Compliance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Program requirements is a condition of employment for all NJ TRANSIT employees.

VII. CONTRACTORS SUBJECT TO TESTING

- A. Employees of contractors who are "standing in the shoes of" NJ TRANSIT and who perform safety-sensitive functions are subject to compliance with FMCSA regulations regarding drug and alcohol testing (i.e., safety-sensitive functions for contract employees are the same functions as for NJ TRANSIT employees).
- B. If NJ TRANSIT uses a contract service provider or maintenance provider, NJ TRANSIT shall ensure and certify to FMCSA that the contractor is in compliance with its regulations regarding drug and alcohol testing.
 - 1. NJ TRANSIT shall notify all such contractors in writing of FMCSA regulations and the requirement for their compliance with them.
 - 2. NJ TRANSIT shall provide all such contractors with copies of the applicable FMCSA regulations and ensure that each contractor provides a signed form acknowledging receipt of the regulations.
 - 3. NJ TRANSIT shall obtain from each contractor an annual Management Information System Report (MIS) and file the report with FMCSA (See Section XVII below).
- C. All invitations for bids and requests for proposals involving the performance of safety-sensitive functions shall include a statement regarding the required compliance with FMCSA regulations regarding drug and alcohol testing. NJ TRANSIT shall inform the contractor in writing of FMCSA requirements and of NJ TRANSIT's intent to monitor the contractor's compliance with them.

VIII. STANDARDS OF CONDUCT

A. Prohibited Behavior

As a condition of employment, all NJ TRANSIT employees are prohibited from:

- 1. Being impaired by or under the influence of a drug or alcohol while subject to, reporting for, or on duty; while in the workplace; while in recognizable NJ TRANSIT uniform; while operating any NJ TRANSIT vehicle at any time; or while conducting business for or representing NJ TRANSIT.
- 2. Using a drug at any time, whether on or off duty, except as permitted by Sections VIII-C and VIII-D ("Use of Prescription Drugs" and "Use of Over-the-Counter Medications").
- 3. Unlawfully possessing, distributing, dispensing or manufacturing a controlled substance at any time.
- 4. Using alcohol for whichever is the lesser of the following periods: within four (4) hours prior to reporting for duty; after receiving a call or notice to report for duty; or within four (4) hours prior to performing job duties.
- 5. Possessing, distributing or using alcohol while reporting for or on duty; while in the workplace; and while in recognizable NJ TRANSIT uniform.

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6. Using alcohol for eight (8) hours following an accident or until he has undergone a post-accident test, whichever occurs first.

A violation of any of the above prohibitions is a dischargeable offense.

B. On-call Employees

An employee may acknowledge the use of alcohol and his inability to perform his job at the time he is called to report to duty. If an employee has acknowledged the use of alcohol but claims the ability to perform his job, the employee shall be required to take an alcohol test.

C. Use of Prescription Drugs

1. NJ TRANSIT will allow the use of a drug specifically prescribed for an employee by his physician provided:
 - a. The employee has described his assigned duties to the physician at the time the drug is prescribed; and
 - b. With knowledge of those duties and on the basis of the available medical history, the physician has made a good faith judgment that the use of the drug(s) at the prescribed dosage level(s) is consistent with the safe performance of the employee's duties; and
 - c. The drug is in its original container when it is in the employee's possession while in the workplace, clearly labeled with the employee's name, the name of the drug and the physician's Federal Drug Enforcement Administration number; and
 - d. The drug is used at the dosage prescribed; and
 - e. In the event that the employee is being treated by more than one medical practitioner, at least one treating medical practitioner has been informed of all medications authorized or prescribed and has determined that the use of all medications in combination is consistent with the safe performance of the employee's duties; and
 - f. The employee observes any restrictions imposed with all medications authorized or prescribed, or combinations of medications authorized or prescribed.
2. NJ TRANSIT requires that the use of a prescription drug be legitimate. An individual must, in addition to proving his compliance with the requirements set forth above, provide Medical Services with a valid current prescription or the drug in its original container as required in subsection c above, and a statement signed by the prescribing physician indicating the physician's and the employee's compliance with subsections 1a, 1b and, if applicable, 1e and 1f above. This must be submitted within 48 hours of a request by the MRO.
3. If NJ TRANSIT's MRO determines, upon review of a test reported positive by the laboratory, that there was legitimate use of a prescribed drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

D. Use of Over-the-Counter Medications

1. NJ TRANSIT recognizes that use of over-the-counter (OTC) medications may compromise an employee's ability to function properly in his safety-sensitive position, as does the use of prescribed medication. To ensure safety in the workplace, employees are required to exercise caution when using any medication. Employees are required to do the following.
 - Observe any restrictions printed on the OTC medication
 - Use the medication according to the recommended dose

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- Consult a physician or a pharmacist for possible interactions of the OTC medication with other medication being consumed
 - Obtain clearance for use of the OTC medication while performing safety-sensitive functions from the physician, pharmacist or Medical Services.
2. If NJ TRANSIT's MRO determines, upon review of a test reported positive by the laboratory, that there was legitimate use of an OTC drug, the MRO shall verify and report the test result to NJ TRANSIT as negative.

D. Notification to NJ TRANSIT of Charges and Convictions of Criminal Drug Statutes

1. All NJ TRANSIT employees must notify their immediate supervisor, in writing, within five (5) calendar days of being formally charged with a violation and/or conviction (which includes a plea of *nolo contendere*) of any criminal drug statute.
2. Conviction of any criminal drug statute or failure to comply in a timely manner with the above notice requirements is a dischargeable offense.

E. Cooperation and Compliance with Collection and Testing

1. Each employee or final applicant required to be tested for drugs and/or alcohol pursuant to this policy must provide complete, valid, undiluted, unadulterated breath and/or urine and/or blood specimens as requested; supply the information necessary to identify the specimens (i.e., complete paperwork and initial specimen); and otherwise cooperate with collection and testing procedures.
2. If it is required by a collection site (e.g., hospital for post-accident testing), an individual required to participate in body fluid testing shall immediately evidence consent to the taking of specimens, their release for toxicological analysis, and release of the test results to NJ TRANSIT's MRO by promptly executing a consent form. The individual is not required to execute any document waiving rights that he would otherwise have against NJ TRANSIT and any such waiver is void. The individual may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen, or to indemnify any person for the negligence of others.
3. Refusal to cooperate is a dischargeable offense in accordance with NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy. Any applicant who refuses to cooperate with required testing will not be hired.

F. Behavior that Constitutes a Refusal to Cooperate

Behavior that constitutes a refusal to cooperate with testing includes, but is not limited to, the following.

1. Failure to appear for a test within a reasonable time, as determined by the employer, after being directed to do so by the employer.
2. Failure to remain at the testing site until the testing process is complete.
3. Failure to remain readily available for drug and/or alcohol testing following an accident or incident until tests have been conducted and/or specimens have been collected, without regard to any subsequent provision of specimens.
4. Tampering with a specimen including:
 - Substitution of specimen
 - Dilution of specimen
 - Adulteration of specimen
 - Tampering with testing equipment in order to prevent a valid test.

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5. Refusal to take the test.
6. Refusal to cooperate with testing procedures as required by federal regulations.
7. Failure to provide a sufficient quantity of breath or urine without a valid medical explanation.
8. Refusing to be examined or comply with any medical requirements to explain why a specimen was not provided in a shy lung or bladder situation.
9. Refusing to remove outer clothing (including but not limited to coveralls, jackets, coats, hats, sweaters) and refusing to empty pockets and display items to the collector.
10. Refusal to permit monitoring or observation of a collection when such monitoring or observation is required under federal regulation and/or NJ TRANSIT policy.

IX. ENFORCEMENT

A. Responsive Action

Any employee, who either (1) refuses to cooperate with collection and testing, (2) provides an adulterated or substituted sample, (3) is the subject of a verified positive drug test, or (4) is the subject of a confirmed positive alcohol test will be immediately removed from duty.

No employee whose test result indicates an alcohol concentration of 0.020 or greater, but less than 0.040, may perform or continue to perform his job duties for a period of twenty-four (24) hours following the administration of the test.

Any employee whose test result indicates an alcohol concentration of 0.040 or greater will be taken out of service and referred to EAP for a first offense, except in the case of a positive result on a reasonable suspicion test, a reasonable cause test or a post-accident test where it has been determined that the employee was at fault.

The employee shall be advised by an NJ TRANSIT Employee Assistance Program SAP of the resources available to evaluate and resolve problems associated with drug and/or alcohol misuse. The SAP shall determine what assistance, if any, the employee needs in resolving problems associated with drug and/or alcohol misuse. This referral and the subsequent evaluation by the SAP shall not affect NJ TRANSIT's right to assess discipline up to and including discharge for any violation of this policy.

B. Consequences of a Violation of Policy

1. NJ TRANSIT considers the following as dischargeable offenses:
 - a. Producing a verified positive drug test or confirmed positive alcohol test (subject to right of mandatory Employee Assistance Program participation described in Section XI-C below)
 - b. Violation of any of the prohibited behaviors described in Section VIII-A above
 - c. Failure to timely notify one's supervisor of a formal charge, or conviction, of violation of a criminal drug statute
 - d. Conviction of violation of a criminal drug statute
 - e. Refusal to cooperate with collection or testing requirements
 - f. Failure to cooperate with and successfully complete EAP requirements (including after care) recommended by NJ TRANSIT's SAP's.

2. In all cases where an employee is suspected or found to be in possession of, selling or distributing a controlled substance while on duty or in the workplace, the matter will be referred to the appropriate law enforcement agency.

X. DRUG AND ALCOHOL TESTS

A. Periodic Medical Examinations (Physicals)

Periodic physicals by NJ TRANSIT's Medical Services Department are available to employees who are required to have such examinations. Employees who request such examinations will be required to sign a form reflecting their consent to drug and alcohol tests as part of the examination.

B. Pre-Employment Testing

1. All final applicants for safety-sensitive positions, employees seeking to transfer from a non-safety-sensitive position to a safety-sensitive position and employees who are being reinstated under NJ TRANSIT policy must be given a pre-employment drug and alcohol test under FMCSA authority. Employees who have not performed safety-sensitive duties for 90 calendar days must take and pass a drug and alcohol test conducted under federal authority before assuming safety-sensitive duties. Individuals shall be informed of the testing requirements prior to the tests being conducted and notified that the urine sample will be tested for the presence of marijuana, cocaine, opiates, phencyclidine and amphetamines.
2. Any final applicant whose post-offer medical examination reveals a history of substance abuse may be referred to an NJ TRANSIT SAP for an evaluation. However, final applicants with a history of substance abuse within the past five years must be referred for an evaluation by an NJ TRANSIT SAP. Each individual will be evaluated on a case-by-case basis to determine if there is a need for unannounced follow-up testing. The SAP shall determine the nature, frequency and duration of such testing, if any, and the individual shall only be hired or transferred on the condition that he consents to such testing.
3. No individual shall be hired for or transferred to a safety-sensitive position unless he tests negative for drugs and obtains a result less than 0.040 on his alcohol test.
4. NJ TRANSIT shall notify the individual of the results of the drug and alcohol tests. If an individual's drug test is canceled, the individual shall take another pre-employment drug test. If an individual declines to be tested and withdraws his application for employment, no record shall be maintained of the declination.
5. Individuals who are reinstated into safety-sensitive positions must complete a physical examination, which includes drug and alcohol tests. Individuals who test positive on a reinstatement physical for either drugs and/or alcohol will not be considered for reinstatement until they have completed a Mandatory Employee Assistance Program, if eligible. Employees who are not eligible to participate in the mandatory program will be terminated.

C. Random, Unannounced Testing

1. All employees who perform safety-sensitive functions are subject to random, unannounced drug and alcohol testing.
2. The testing will be fair and equitable with no discretion on the part of management or operations in the testing process. Employee numbers shall be in a pool from which random selection is made. Employees shall be selected by a scientifically valid computer-based random number generator that is matched with the individual's employee number. All employees in the random pool shall have an equal chance of being selected for testing and shall remain in the pool even after being tested. Therefore, it is possible for some employees to be tested several times in one year. The drug and

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alcohol testing shall be spread reasonably throughout the calendar year, and shall be conducted on all days and hours during which transportation services are in operation.

3. Once the employee has been notified that he has been selected for testing, he must report immediately to the collection site.

D. Reasonable Suspicion Testing

1. An employee is required to submit to an alcohol and/or drug test when a supervisor has reasonable suspicion, based on specific contemporaneous observations concerning the appearance, behavior, speech or body odors of the employee, to believe the employee has engaged in any of the behaviors prohibited by this policy concerning the use of alcohol and/or drugs.
2. Reasonable suspicion testing shall be subject to the following limitations and conditions:
 - a. When the suspicion is only of drug use, a urine test shall be performed; when the suspicion is only of alcohol use, a breath test shall be performed; when the suspicion is not specific to either drug or alcohol use, both a urine and a breath test shall be performed.
 - b. A supervisor who makes the determination of reasonable suspicion must be trained in detecting the signs and symptoms of drug use and alcohol misuse. A supervisor who makes the determination that reasonable suspicion of alcohol use exists may not conduct the breath alcohol test on that employee. A direct supervisor of an employee shall not serve as the DATT for a drug test of that employee.
 - c. A supervisor may direct an employee to undergo reasonable suspicion testing for alcohol only while the employee is performing a safety-sensitive function, just before the employee is to perform a safety-sensitive function, or just after the employee has ceased performing such function.
 - d. No employee may be required to participate in alcohol or drug testing after the expiration of an eight (8) hour period from the time of the observations providing reasonable suspicion. In the case of a drug test, the eight (8) hour requirement is satisfied if the employee has been delivered to the collection site (where the collector is present) and the request has been made to commence collection of the urine specimen within that period.
 - e. If an alcohol test is not administered within two (2) hours following the determination that the test should be conducted, the supervisor shall prepare and maintain on file a written record stating the reasons the test was not promptly administered. If a test is not administered within eight (8) hours following the determination, the supervisor shall cease attempts to have the test administered and shall state in the record the reasons it was not administered.
 - f. In all cases where an employee is required to be tested based upon reasonable suspicion, a written report setting forth the facts upon which the reasonable suspicion is based shall be completed and signed by the supervisor.
 - g. An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
 - h. Any employee who tests positive for drugs or alcohol on a reasonable suspicion test will be discharged.

E. Post-Accident Testing

Testing for drugs and alcohol is required following an "accident" or a "Rail accident/incident", as defined in Section III above and meeting the criteria below, unless an employee's performance can be discounted completely as a causative or contributing factor in the accident.

1. Fatal Accident

Whenever there is an accident involving a loss of human life and a supervisory employee of NJ TRANSIT has a reasonable belief, based on specific facts, that the acts or omissions of an employee who was on duty in the vehicle at the time of the accident contributed to the occurrence or severity of the accident, that employee must be tested for drugs and alcohol. Employees not in the vehicle at the time of the accident, but whose acts or omissions could have contributed to the accident or its severity (as determined by an NJ TRANSIT supervisor using the best information available at the time of the accident) must also be tested for drugs and alcohol.

2. Non-fatal Accident

An employee on duty in the vehicle at the time of the accident, who receives a citation under State or local law for a moving traffic violation arising from the accident, shall be tested for drugs and alcohol if any individual is taken to a medical treatment facility or any of the vehicles involved are towed from the scene. Any employee whose acts or omissions could have contributed to the accident, as determined by an NJ TRANSIT supervisor using the best information available at the time of the accident, must also be tested for drugs and alcohol.

3. Rail Accident/Incident

An employee who has been involved in a Rail accident/incident will be tested for drugs and alcohol when a supervisory employee of NJ TRANSIT Rail Operations has a reasonable belief, based on specific facts, that the employee's acts or omissions contributed to the accident/incident's occurrence or severity.

4. Time Limitations and Conditions

- a. An employee shall be tested for drugs within 32 hours following an accident. Testing following a Rail accident/incident shall be conducted promptly following the observations or events upon which the testing decision is based and before the employee is released from duty under the normal procedures of the railroad. (An employee who is subject to testing following a Rail accident/incident and who has been transported to receive medical care is not released from duty for purposes of this paragraph).
- b. An alcohol test must be performed promptly after the accident. If a test is not administered within two (2) hours following the accident, the supervisor must still attempt to insure the administration of the test, but shall prepare and maintain on file a written record stating the reason(s) the test was not promptly administered. If an alcohol test is not administered within eight (8) hours following the accident, the supervisor shall cease attempts to have the test administered and shall prepare and maintain a record giving the reasons why the test was not promptly administered.
- c. An employee who is subject to post-accident testing and who fails to remain readily available for such testing, including failing to contact his supervisor and/or the NJ TRANSIT representative at the location, or who leaves the scene of the accident prior to submission to such test, shall be deemed to have refused to cooperate with testing.
- d. The requirement to test for drugs and alcohol following an accident shall in no way delay necessary medical attention for injured people or prohibit an employee from leaving the scene of an accident in order to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

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- e. A written report setting forth the facts upon which the post-accident testing is based shall be completed and signed by the supervisor in all cases where an employee is required to be tested under the post-accident criteria.
- f. An employee shall be removed from service without pay pending the outcome of the test(s). The employee shall be returned to service with back pay (to include any time consumed by the collection/testing process, if not otherwise compensated) if the outcome of the test(s) is negative.
- g. Any employee who tests positive for drugs or alcohol on a post-accident test where it is determined by NJ TRANSIT that the employee was at fault will be discharged.

F. Return-to-Duty Testing

- 1. Testing negative on a return-to-duty drug and/or alcohol test is required of an employee prior to his being approved to return to duty from any of the following events.
 - a. Discipline resulting from a positive drug or alcohol test result
 - b. Discipline resulting from violation of any of the Standards of Conduct set forth in Section VIII
 - c. Returning to duty following a refusal to cooperate or tampering with, adulterating or substituting a specimen
 - d. Successful completion of NJ TRANSIT's EAP whether under voluntary or mandatory participation.
- 2. An NJ TRANSIT SAP may require that an employee be administered a return-to-duty drug test even if the original infraction or substance abuse involved alcohol. Conversely, the SAP can require that an employee be administered a return-to-duty alcohol test even if the original infraction or substance abuse involved drugs.
- 3. Before a return-to-duty test is performed, an employee shall be evaluated by an NJ TRANSIT SAP to insure that the employee has followed the counseling and treatment recommendations.
- 4. An employee must have a verified negative drug test result or an alcohol test result of less than 0.020 to return to duty. If a drug and/or alcohol return-to-duty test result is canceled, the employee shall be required to submit to and pass another drug and/or alcohol test.
- 5. A mandatory EAP participant who tests positive on a return-to-duty test will be discharged in accordance with NJ TRANSIT's policy.

G. Unannounced Follow-Up Testing

- 1. An employee returned to duty under any of the conditions described in Section F above shall continue in any program of counseling or treatment recommended by the SAP and shall also be subject to unannounced follow-up drug and/or alcohol testing.
- 2. Employees who successfully complete the NJ TRANSIT voluntary or mandatory EAP will be subject to a program of unannounced follow-up testing for at least 12 months, but not more than 60 months, from the date of the employee's return to duty. The frequency, duration and nature of the follow-up testing shall be determined by NJ TRANSIT's SAP, but it shall consist of a minimum of six (6) tests in the first 12 months after the employee's return to duty. Employees who are subject to follow-up testing must cooperate with testing or be subject to disciplinary action as outlined in Section IX-B(1).
- 3. An employee who participates in an NJ TRANSIT mandatory EAP and who tests positive on any unannounced follow-up test will be discharged. A voluntary EAP participant who tests positive will be offered the opportunity to enter the EAP on a mandatory basis as authorized by Section XI-C below.

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4. In accordance with NJ TRANSIT policy, an employee shall be subject to unannounced follow-up testing if the employee's primary drug specimen tests positive but the split specimen result is negative. In such a case, the employee shall be returned to duty and subject to unannounced follow-up testing during the next 90 days.

XI. EMPLOYEE ASSISTANCE

A. NJ TRANSIT's Employee Assistance Program (EAP)

1. It is the policy of NJ TRANSIT to encourage employees to voluntarily seek help prior to being discovered to be in violation of this policy. NJ TRANSIT provides EAP services for any employee troubled by alcohol or drug problems. EAP is an assessment, referral and rehabilitation program through which substance abuse professionals, provided by or through referral by NJ TRANSIT, counsel and treat employees affected by substance abuse problems. The SAP's also monitor the progress of employees in recovery and assist them in managing these problems that may affect job performance.
2. Employees entering EAP will be evaluated by a qualified NJ TRANSIT SAP/EAP counselor. The counselor will determine if the employee is affected by a psychological or physical dependence upon alcohol or drugs or by any other identifiable and treatable mental or physical disorder involving the use of alcohol or drugs.
3. Employees shall not be permitted to participate in the EAP more than twice for drug and/or alcohol problems under this and any previous policy, unless the third participation is voluntary and begins at least 10 years after the completion of the most recent previous participation.
4. The amount of time an employee will be excused from duty for EAP participation shall not exceed 90 calendar days per treatment unless the SAP/EAP counselor indicates further treatment is required. Employees entering EAP under voluntary or mandatory participation will be entitled to receive any sick pay, health benefits or vacation time to which they are entitled, provided that they continue to comply with the EAP-recommended treatment. After the expiration of earned sick time and/or available vacation time, the balance of any time off required to complete primary treatment and gain manageability over the substance abuse problem will be granted through an unpaid leave of absence. The absence, whether paid or unpaid, will be counted against any leave allowance for which the employee is eligible under the Family and Medical Leave Act.
5. NJ TRANSIT shall not offer the voluntary EAP option in a case where the seeking of assistance, referral or report is made in anticipation of, or with the effect of, anticipating the imminent and probable detection by a supervisory employee of a policy violation.
6. All treatment records will be held in confidence, with management being simply told that the employee remains medically not qualified for duty.
7. Employees who enter EAP, either voluntarily or mandatorily, must abide by and with the treatment plan. Employees who refuse to cooperate with EAP or who fail to successfully complete the program will be discharged from NJ TRANSIT.

B. Voluntary EAP Participation

1. NJ TRANSIT's EAP is open to all employees on a voluntary and confidential basis. It affords employees, affected by alcohol or drug use problems, the opportunity to maintain an employment relationship with NJ TRANSIT while seeking help before the employee has engaged in conduct deemed by NJ TRANSIT sufficient to warrant discipline. The employee may voluntarily seek assistance through NJ TRANSIT for treatment of the problem or be referred for such assistance by a supervisor, another employee or a representative of the employee's union.
2. An employee who enters EAP voluntarily will not be disciplined on account of any admission that he has previously engaged in any prohibited behavior set forth in this policy, or on account of his entry into EAP.

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C. Mandatory EAP Participation

1. An employee shall be eligible for mandatory EAP participation if he has not previously had a positive drug or alcohol test or been determined to have failed to cooperate with drug or alcohol collection or testing procedures (including adulterating, substituting or tampering with a specimen) and he tests positive for drugs or alcohol in any of the following circumstances:
 - a. A test upon transfer into a safety-sensitive covered service position, or upon reinstatement in such a position
 - b. A test conducted as part of a periodic medical examination
 - c. A post-accident test where it is determined by NJ TRANSIT that the employee was not at fault
 - d. A random unannounced test
 - e. A return-to-duty test
 - f. An unannounced follow-up test.
2. If, after any applicable hearing procedure, an employee described in Section C-1 above is determined to have violated NJ TRANSIT's policy, the employee shall be discharged unless he agrees to enter EAP and successfully complete any recommended course of treatment. If the employee agrees to enter EAP he shall be suspended without pay for 30 calendar days. The suspension shall be served concurrently with the employee's EAP participation.
3. An employee who has already participated twice in NJ TRANSIT's EAP for drug and/or alcohol problems shall not be offered a third opportunity under this section, but shall be discharged.
4. An employee who has previously had a positive drug or alcohol test or previously been determined to have refused to cooperate with collection or testing shall be discharged in accordance with NJ TRANSIT's policy.
5. Positive drug and/or alcohol tests under all prior versions of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy shall be considered previous positive tests for purposes of this section.

D. EAP Return to Work Requirements

1. Employees must cooperate with and successfully complete any treatment recommended by the SAP, including any treatment plan for the period after they are returned to duty.
2. Any SAP referral and subsequent handling, including counseling and treatment, is treated as confidential, except confidentiality is deemed waived if:
 - a. The employee at any time refuses to cooperate in a recommended course of counseling or treatment; or
 - b. The employee is subsequently involved in a disciplinary offense and, after an investigation, it is determined that the employee violated any drug and/or alcohol prohibitions.

XII. DRUG TESTING PROCEDURES

A. Drugs Tested

Urine specimens shall be tested for the following drugs or their metabolites: marijuana, cocaine, opiates (i.e., morphine, codeine), phencyclidine (PCP) and amphetamines (i.e., methamphetamine).

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B. Preparation for Collection

NJ TRANSIT and its certified drug-testing laboratory shall maintain clear and well-documented procedures for the collection, shipment and accessioning of urine specimens. Collection procedures shall include:

1. Use of a clean, single-use collection cup or collection container(s) that is securely wrapped until filled with the specimen; and
2. Use of a tamper-evident sealing system for specimen bottles; and
3. Use of a standard Drug Testing Custody and Control Form (CCF); and
4. Use of a shipping container in which specimens and associated paperwork can be placed.

NJ TRANSIT will provide written procedures, instructions and training on the collection process to certified collectors.

C. Specimen Collection

1. Urine specimens shall only be collected by certified collectors.
2. A person with direct management or supervisory responsibility over the employee to be tested, or a co-worker of the employee to be tested, may not serve as the collector for that employee's urine test.
3. Urine specimens shall only be collected at secure, designated collection sites which have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary storage and shipping or transportation of specimens to a certified drug testing laboratory.
4. Precautions shall be taken by the collector to ensure that a urine specimen not be adulterated or diluted during the collection procedure and that information on the urine bottle and on the CCF can identify the individual from whom the specimen was collected.
5. Upon notification of testing, individuals are required to remain available until the completion of the collection process. Individuals are required to provide at least 45 ml of urine under the split sample method of collection described below. If the individual is unable to provide at least 45 ml, the DATT shall instruct the individual that he may drink a maximum of 40 ounces of fluids over the course of three hours. The individual shall again attempt to provide a complete specimen. If the individual fails for any reason to provide 45 ml of urine within three hours, the test shall be discontinued and the DATT shall direct the individual to report to Medical Services for an evaluation by the MRO. The MRO may direct the employee to another physician with expertise in the appropriate medical discipline to determine if the employee's failure to provide a sufficient specimen is valid or constitutes a refusal to cooperate with a drug test. Based on this medical evaluation, the MRO or designated physicians shall report their conclusions in writing to NJ TRANSIT's DER.
6. If an individual refuses to cooperate with the collection process, the DATT must inform the appropriate supervisor and document the non-cooperation on the CCF.
7. The chain of custody block of the CCF shall be properly executed by the DATT upon receipt of a specimen. Handling and transportation of specimens from one authorized individual or place to another, including handling at the laboratory, shall always be accomplished through chain of custody procedures. However, since specimens are sealed in packages that would indicate any tampering during transit to the laboratory and because couriers, express carriers and postal service personnel do not have access to the CCF, such personnel need not document chain of custody during transit.
8. Specimens shall be placed in containers designed to minimize the possibility of damage during shipment to the laboratory and shall be securely sealed to eliminate the possibility of undetected tampering.

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9. In any case where an employee has sustained a personal injury and is subject to drug testing, necessary medical treatment shall be accorded priority over the provision of body fluid specimens. No employee who is unable to urinate normally as a result of personal injury or resulting medical treatment shall be required to provide a urine specimen. However, an employee who has been transported to receive medical care is not to be considered released from duty for the purpose of compliance with this policy.
10. Any specimen suspected of having been adulterated, substituted or diluted shall be forwarded to the laboratory for testing.
11. Employees will be required to supply another sample as soon as possible and without prior notification if the specimen is reported as being dilute by the laboratory. The first collection result will be canceled; the second collection result is the test on which NJ TRANSIT will rely.

D. Split Specimen

A minimum of 45 ml of urine is required for the split specimen procedure to be utilized under this policy. The urine specimen must be split and poured into two (2) specimen bottles, "A" and "B". Thirty (30) ml shall be poured into bottle "A", to be used as the primary specimen. At least 15 ml shall be poured into the other bottle ("B"), to be used as the split specimen. Both bottles shall be forwarded to the laboratory. In the event that a split sample or bottle "B" is unavailable, the provisions of Section G (6) will apply.

E. Observed Collections

1. Procedures for collecting urine specimens shall allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. The following circumstances are the only grounds constituting a reason to believe that an individual may alter or substitute a specimen.
 - a. The employee has presented a urine specimen that falls outside the normal temperature range of 90 to 100 degrees Fahrenheit; or
 - b. The DATT observes conduct clearly and unequivocally indicating an attempt to tamper with, substitute or adulterate the specimen or an attempt to bring an adulterant or a substitute urine specimen into the collection site; or
 - c. The urine specimen provided by the employee on the most recent previous occasion was determined by the laboratory and confirmed by the MRO to be invalid, substituted, or adulterated or the test result had to be canceled because the test of the split sample could not be performed.
 - d. The employee has previously been determined to have used a drug without medical authorization and the particular test is being conducted as part of a rehabilitation program on return to duty after any required rehabilitation; or under any USDOT agency regulation providing for follow-up testing upon or after return to duty.
 - e. When the MRO receives a laboratory report that a specimen was dilute with a creatinine concentration greater than or equal to 2 ml/dl and less than or equal to 5 ml/dl.
2. A supervisor of the DATT shall review and concur in advance with any decision by a DATT to obtain a specimen under direct observation. The direct observation must be performed by a DATT of the same gender as the employee or applicant being tested. The DATT's supervisor shall select the observer if there is not a DATT of the same gender available.
3. The DATT must indicate in the "Remarks" section of the CCF that the collection took place under direct observation and the reason for doing so, as well as indicating who did the observation.

F. Laboratory Testing

1. Laboratory

Urine specimens shall be analyzed by a laboratory certified under the Department of Health and Human Services' (DHHS) Mandatory Guidelines for Federal Workplace Drug Testing Programs. The laboratory shall be secure at all times and shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage and continuing until final disposition of specimens. NJ TRANSIT's laboratory is identified in Exhibit 2 hereto.

2. Initial Test of Primary Specimen

The laboratory shall use as an initial test an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution, and shall use the following cut-off levels:

	Initial test level (ng/ml)
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2,000*
Phencyclidine	25
Amphetamines	1,000

* 25 ng/ml if immunoassay specific for free morphine

The laboratory shall also conduct validity tests to determine if the specimen has been adulterated, substituted or diluted, and if so, identify the adulterant(s) used.

Laboratories are to report substituted samples by documenting on copy #1 of the CCF the specific gravity and creatinine concentration. Specimens with creatinine levels less than 2 ml/dl are to be reported to the MRO as substituted. Specimens with creatinine levels 2 ml/dl to 5 ml/dl will require a collection to be provided immediately under direct observation.

3. Confirmation Test of Primary Specimen

All primary specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) at the following cut-off levels:

	Confirmation test level (ng/ml)
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2,000
Codeine	2,000
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid

² Benzoylecgonine

All opiates confirmed positive will undergo an additional test for 6-acetylmorphine at a level of 10 ng/ml.

To be confirmed positive for amphetamines, the specimen must also contain amphetamine at a level of ≥ 200 ng/ml.

G. Test of Split Specimen

1. An employee or final applicant for employment has the option of having an analysis of the split specimen performed at a different DHHS-certified laboratory should the primary specimen test result be verified positive or identified as having been adulterated or substituted.
2. The MRO shall notify each individual who has a verified positive drug test or whose sample has been determined to have been adulterated or substituted that the individual has 72 hours in which to request a test of the split specimen. If the individual requests in writing a test of the split specimen within 72 hours of having been informed of a verified positive test or an adulterated or substituted sample, the MRO shall direct, in writing, the laboratory to ship the split specimen to a different DHHS-certified laboratory for testing. Any transfer of a specimen between laboratories must be accomplished in accordance with chain of custody procedures.
3. The testing of the split sample will be conducted consistent with federal regulations. NJ TRANSIT requests an individual seeking a test of a split specimen to be responsible for the cost of any transfer of the split specimen and the cost of the test, unless the test fails to reconfirm the positive result or adulterated or substituted specimen. The MRO must receive a copy of the results from the split sample testing.
4. Because some analytes deteriorate or are lost during freezing or storage, quantification for a test of a split specimen is not subject to a specific cut-off requirement, but must provide sufficient data to confirm the presence of the drugs or metabolites. In the case of multiple confirmed positive results in the primary sample, the test of the split sample must provide sufficient data to confirm the presence of at least one of the drugs or metabolites found in the primary sample.
5. In accordance with NJ TRANSIT policy, if the result of the test of the split specimen fails to reconfirm a positive result, or an adulterated or substituted specimen, or is reported as negative, the original test shall be canceled and the employee may be returned to duty with back pay, but shall be subject to unannounced follow-up testing during the next 90 days. The MRO must report the failure to reconfirm to the USDOT as per Appendix D of 49 CFR part 40.
6. Split samples are always to be collected. If for some reason, the split specimen or bottle "B" is lost, spilled or otherwise unavailable, the laboratory will:
 - a. Test the primary sample; and
 - b. Report the results of the primary sample to the MRO; and
 - c. Report the original test as canceled.

If the primary sample is reported as a verified positive, adulterated or substituted test, a second sample is to be collected under direct observation. The results of the second collection will be final.

H. Quality Assurance

1. The drug testing laboratory shall have a quality assurance program which encompasses all aspects of the drug testing process including, but not limited to, specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, certification of calibrators and controls, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented and reviewed to monitor the conduct of each step of the process of testing for drugs.
2. In addition, there shall be laboratory quality control requirements for both initial and confirmation tests.
3. Blind samples shall be randomly intermingled by NJ TRANSIT and sent to the testing laboratory with individual specimens. They will be analyzed in the same manner to ensure the accuracy of the laboratory testing program.

I. Confirmation and Verification Process

1. Drug test results reported positive, substituted, adulterated or invalid by the laboratory shall not be deemed positive or disseminated to any person (other than to the employee in a medical interview with the MRO, if conducted) until they are reviewed and verified by an MRO. The MRO shall review

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all drug test results reported positive, substituted, adulterated or invalid by the laboratory. The review will include:

- a. Verifying the chain of custody to ensure that it is complete and sufficient on its face; and
 - b. Verifying that the laboratory report and assessment of all drug test results are reasonable; and
 - c. Examining alternate medical explanations for positive, substituted, adulterated or invalid drug test results; and
 - d. Giving all individuals (applicants and employees) an opportunity to discuss the test results with the MRO prior to his making a decision to verify a positive, substituted, adulterated or invalid result. In the case of an adulterated, substituted or invalid test.
2. In the case of an adulterated, substituted or invalid test, the individual is responsible for obtaining an explanation and demonstrating there is a link between the alleged reason and the ability to physiologically produce the laboratory result obtained. The proof must be presented within five (5) days after the MRO review. Employees will not be permitted to perform safety-sensitive duty during this review period and until any additional testing has been completed. Employees will be returned to duty with back pay, if the MRO determines the test to be negative on the basis of the information or documentation the employee has supplied.

J. Contact Procedures

1. The MRO or qualified staff person under the MRO's supervision will contact the individual directly in a confidential manner to arrange for the individual to discuss the test results with the MRO. Only the MRO can discuss the test results with the individual. The MRO can, however, verify a test as positive without having communicated directly with the individual about the test in three circumstances:
 - a. The individual expressly declines the opportunity to discuss the test.
 - b. Neither the MRO nor the DER has been able to contact the individual within ten (10) days of the date on which the MRO receives the confirmed positive test result from the laboratory, after making all reasonable efforts. ("All reasonable efforts" means that the MRO or designate must make and document at least three (3) attempts within a 24-hour period to contact the individual. If the MRO or designate have been unable to contact the individual, the DER will make and document at least three (3) further attempts within a second 24-hour period to contact the individual. If the DER's attempts are unsuccessful, a message can be left for the individual by voice mail, electronic mail or a letter instructing the individual to contact the MRO. The DER must inform the MRO of the dates and times of his attempts to contact the individual).
 - c. The DER has successfully made and documented a contact with the individual and instructed the individual to contact the MRO; more than 72 hours have passed since the date the individual was contacted by the DER and advised of the consequences of failing to contact the MRO within 72 hours.

L. Reevaluation Procedures

1. A laboratory-confirmed positive, substituted, adulterated or invalid test can be reevaluated by the MRO if the individual provides documented proof to the MRO within 60 days of the verification that a serious illness, injury or other circumstance beyond the individual's control prevented contact with the MRO within the specified time frame.
2. The MRO may change a verified positive drug test or refusal to test in the following situations:
 - a. A verification done without an interview with an employee is reopened.
 - b. Information, not available at the time of the original verification, is received which demonstrates there is a legitimate medical explanation for the drug/metabolite in the

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employee's specimen or evidence that a legitimate medical explanation for an adulterated or substituted result exists.

XIII. ALCOHOL TESTING PROCEDURES

A. Evidential Breath Testing Device (EBT)

1. Alcohol testing shall be conducted using an evidential breath testing device (EBT) which shall be selected from among those listed on the Conforming Products List of Evidential Breath Measurement Devices amended and published in the Federal Register from time to time by the National Highway Traffic Safety Administration (NHTSA) of the USDOT.
2. Each device shall have a manufacturer-developed quality assurance plan approved by NHTSA that specifies a designated method to perform external calibration checks; minimum intervals for performing external calibration checks; tolerances; and inspection, maintenance and calibration requirements and intervals for the device.

B. Drug and Alcohol Testing Technician (DATT)

1. Alcohol testing shall be conducted by a DATT who is proficient in the use of the EBT and in alcohol testing procedures. The DATT shall have successfully completed a USDOT-approved course of instruction and demonstrated competence in the operation of the device and use of the breath alcohol calibrating unit.
2. The supervisor of an employee to be tested for alcohol shall not serve as the DATT for that employee's test.

C. Alcohol Testing Site

The DATT shall conduct the test in a manner that provides the employee with privacy to the greatest extent practicable. The testing site shall be secured by the DATT, with no unauthorized access at any time the EBT is unsecured or when testing is occurring. The DATT shall conduct only one test at a time and must remain at the testing site while the preparations for testing or the test itself are in progress.

D. Priority of Medical Treatment over Testing

In any case where an employee has sustained a personal injury and is subject to alcohol testing, necessary medical treatment shall be accorded priority over the provision of breath samples. However, an employee who has been transported to receive medical care is not to be considered released from duty for purposes of this policy.

E. Screening Test

If the result of the EBT screening test is an alcohol concentration of less than 0.020, no further testing will be conducted.

F. Confirmation Test

1. If the result of the screening test is an alcohol concentration of 0.020 or greater, a confirmation test shall be performed. The confirmation test must be conducted not less than 15 minutes, but not more than 30 minutes, after the completion of the initial test.
2. Before the confirmation test is administered, the DATT shall conduct an air blank on the EBT. If the reading is greater than 0.00, the DATT shall conduct one more air blank. If the second air blank reading is greater than 0.00, that EBT shall not be used to conduct the test.
3. If the initial and confirmatory test results are not identical, the confirmation test result shall be deemed to be the final result. If the result displayed on the EBT itself is not the same as that on the printed form produced by the EBT, the test shall be canceled and the EBT removed from service. A second confirmation must be conducted using a different EBT. Documentation regarding the incident is to be completed and attached to the Alcohol Testing Form (ATF).

4. No individual shall be deemed to have tested positive for alcohol in violation of this policy unless a confirmed breath test of at least 0.040 is obtained.
5. Any employee whose confirmation test result is between 0.020 and 0.039 will be considered unavailable for work under NJ TRANSIT policy and referred to his supervisor for appropriate action, including discipline.

G. Uncompleted Tests and Refusal to Test

1. If a screening or confirmatory test cannot be completed for any reason the DATT shall, if practical, begin a new test.
2. Refusal by an individual to complete and sign step 2 of the ATF, to provide an adequate amount of breath, or otherwise to cooperate with the collection process shall be noted on the ATF and the test shall be terminated. Refusal to sign Step 4 is not considered a refusal to test. Step 4 does not need to be signed if the confirmation or screening test result is less than 0.020.
3. If an individual attempts but fails to provide an adequate amount of breath, the DATT shall inform the DER. The DATT shall order the individual to the Company doctor for an evaluation. The Company doctor may refer the employee to a physician with expertise in an appropriate medical discipline to determine if the employee's failure to provide an adequate amount of breath specimen is valid or constitutes a refusal to cooperate with a breath test. The physician(s) shall report their conclusions in writing to NJ TRANSIT's DER. An employee's failure to comply with a request by the physician(s) to obtain additional information or to appear for the required evaluation is considered a refusal to cooperate with testing.
4. An individual will be given only two (2) opportunities to provide a breath sample.

XIV. SUBSTANCE ABUSE PROFESSIONALS (SAP)

A. The SAP shall carry out the following responsibilities.

1. Advise each individual who has an alcohol concentration of 0.040 or greater, or who has a verified positive drug test result, or who has refused to submit to an alcohol or drug test of the resources available to evaluate and resolve problems associated with alcohol misuse or drug abuse, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs.
2. Evaluate whether each employee who tested positive for drugs or alcohol and wants to return to work has properly followed the SAP's recommendation for treatment.
3. Determine the type of testing (i.e., drug and/or alcohol) that a returning employee shall be subject to on return-to-duty and/or follow-up testing.
4. Determine the frequency and number of tests a returning employee shall be subject to as part of follow-up testing after returning to duty.

XV. EMPLOYEE DRUG AND ALCOHOL ABUSE EDUCATION AND SUPERVISOR TRAINING

A. Employee Education

1. NJ TRANSIT's EAP, with the assistance of the appropriate departments, will educate all employees about the dangers of alcohol and drugs, their effects and consequences. The education program will help motivate employees to understand the problems associated with abusing alcohol and drugs and the ways such abuse will compromise their personal functioning, as well as their functioning on the job. To accomplish this objective, a number of approaches will be taken to include the following.
 - a. Displays and/or direct mailings to all employees of pertinent information on substance abuse
 - b. Orientation for all employees on EAP and opportunities for treatment and rehabilitation

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- c. Education modules will be provided as part of regularly scheduled safety meetings, rule review sessions and other regular or special meetings, to include discussions on the rationale for NJ TRANSIT's program the reliability of drug and alcohol testing, the circumstances where disciplinary action will be taken for failure to comply with this policy and applicable requirements to assure the confidentiality of patient records for the protection of the employee's physician-patient relationship and the employee's medical history
- d. An educational component for employees in safety-sensitive positions which includes information on the effects and consequences of alcohol and drug abuse on personal health, safety and the work environment, and the manifestations and behavioral cues that may indicate substance use and abuse
- e. Display and distribution of a hot-line telephone number for employee assistance for substance abuse problems, and
- f. Distribution of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy to all NJ TRANSIT employees.

B. Supervisor Training

Each supervisor shall be trained in the signs and symptoms of alcohol and drug impairment and misuse. The program shall, at a minimum, provide information concerning the acute behavioral and physiological effects of alcohol and the major drug groups on the controlled substances list.

C. Communication of Policy to Employees

All employees of NJ TRANSIT and new hires, prior to commencing employment, will be given a copy of NJ TRANSIT's Drug- and Alcohol-Free Workplace Policy and required to sign a dated receipt therefor.

XVI. RECORDS AND RECORD KEEPING

A. Confidentiality and Access to Records

Drug and alcohol test results may be released only under the following circumstances:

1. Upon written request, NJ TRANSIT shall promptly provide any employee with any records relating to his test.
2. No drug or alcohol test results may be released by NJ TRANSIT to a third party (except as provided for in subsection 3 below) unless the individual tested signs a specific authorization for the release of the results to an identified person. A copy of a verified positive drug test result or of a positive alcohol test result will be provided to the employee's union representative upon the employee's written request. No records of information or test results shall be used or disseminated by or within NJ TRANSIT and its subsidiaries for any purpose other than for providing for compliance with this policy without the voluntary written consent of the employee. Such written consent shall specify the person to whom the information may be provided. Drug and alcohol test results will not be voluntarily disclosed to law enforcement agencies or officials, except as provided for in Section IX-B.2 above.
3. NJ TRANSIT may disclose information related to a test result to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested.
4. When requested, NJ TRANSIT shall release information to the National Transportation Safety Board (NTSB) about a test performed as a result of an accident under NTSB investigation; or to the Secretary of Transportation or to any USDOT agency with regulatory authority over NJ TRANSIT or its employees; or to a State oversight agency with regulatory authority over NJ TRANSIT.
5. NJ TRANSIT shall also permit the Secretary of Transportation or any USDOT agency with regulatory authority over NJ TRANSIT or any of its employees access to all facilities utilized in complying with the requirements of this policy.
6. Test results can be released for a criminal or civil proceeding only if the court orders it and only to the parties involved in the proceedings.

B. Record Keeping

Records on program administration and the test results of individuals shall be maintained in accordance with 49 CFR Part 382.401. Records shall be maintained in a confidential and secure manner.

XVII. REPORTING

NJ TRANSIT shall file annual reports summarizing test results with FMCSA as required. The standard Management Information System (MIS) reports that must be used are listed in 49 CFR Part 40, Appendix H. NJ TRANSIT shall also submit annual MIS reports to FMCSA on its contractors whose employees perform safety-sensitive functions and are, therefore, covered by FMCSA regulations.

The above reports are to be submitted to FMCSA's Office of Safety and Security by March 15 of each calendar year (January 1 - December 31).

XVIII. CERTIFICATIONS

NJ TRANSIT shall certify annually to FMCSA compliance with the requirements of 49 CFR Parts 382.403 using language similar to that contained in the 382. Certification means a written statement, authorized by NJ TRANSIT's governing board or other authorizing official that NJ TRANSIT has complied with the provisions of Parts 382.403 and 382.405.

XIX. AUTHORITIES

A. Federal Regulations

1. Department of Transportation, Office of the Secretary, 49 CFR Part 40 - Procedures for Transportation Workplace Drug Testing Programs
2. Department of Transportation, Office of the Secretary, 49 CFR Part 29, Government-Wide Requirements for Drug-Free Workplace Acts of 1988 (Grants)
3. Department of Transportation, Federal Motor Carrier Safety Administration, 49 CFR Part 382 - Controlled Substances and Alcohol Use and Testing

B. State Regulations

Executive Order 204, March 18, 1989

XX. CROSS-REFERENCES

Corporate-Wide Policy and Procedures

- 3.16 Employee Discipline
- 3.25 NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Employees not covered under Policies 3.25A/B/C)
- 3.25A NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Safety-sensitive employees subject to FTA regulations)
- 3.25B NJ TRANSIT Drug and Alcohol-Free Workplace Policy (Covered Service employees subject to FRA regulations)

Job Titles Requiring a Commercial Driver's License

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Maintenance of WayTrack Department

- Class I Machine Operator
- Class I Vehicle Operator
- Repairman
- Repairman Foreman
- Vehicle Operator
- Welder Helper
- Welder
- Welding Foreman

Communications/Signal Department

- Maintainer/Truck Driver

Mechanical Department

- Lead Carman Wreck Derrick
- Lead Technician Wreck Derrick

Materials Management

- Truck Driver/Chauffeur

Structures Department

- Class I Machine Operator
- Class I Vehicle Operator
- Mechanical/Vehicle Operator
- Structural Welder

Electrical Department

- High Tension Lineman/Vehicle Operator
- ET Electrician/Vehicle Operator

Title (NJ TRANSIT BOARD – 7/15/04) DRUG- AND ALCOHOL-FREE WORKPLACE POLICY	Number 3.25C	Date 6/1/04	35584 Exhibit 2
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Contacts

AED, Human Resources (973) 491-8533
NJ TRANSIT Headquarters
1 Penn Plaza East
Newark, NJ 07105-2246

Director, Employee Assistance Programs 1-800 338-2673
2 South Avenue East (908) 272-4256
Suite 2 – 2nd Floor
Cranford, NJ 07016

Director, Medical Services, (973) 378-6432
Training & Employee Development
180 Boyden Avenue
Maplewood, NJ 07040

Supervisor, Drug & Alcohol Program (973) 378-6554
180 Boyden Avenue
Maplewood, NJ 07040

Medical Review Officer (973) 378-6072
Gail Olabisi, MD
180 Boyden Avenue
Maplewood, NJ 07040

NJ TRANSIT's other MRO's can be reached at the following three locations:

Hoboken Terminal 1 Hudson Place Hoboken, NJ 07030 (201) 714-2884	Camden Transportation Center Newton Avenue General Office Building 350 Newton Avenue Camden, NJ 08103 (856) 968-3891
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Egg Harbor Medical Services
Egg Harbor Garage
1431 Doughty Road
Egg Harbor, NJ 08234
(609) 407-2427

Laboratory Services

Lab One, Inc.
10101 Renner Boulevard
Lenexa, KS 66219-9752
(800) 728-4064

Federally Mandated Minimum Annual Testing Rates (Percentages of employees required to be tested)

FMCSA 50% for Drugs, 10% for Alcohol*

**NJ TRANSIT will meet and may exceed these requirements*

**ITEM 0407-56: SUBSTANCE ABUSE MANAGEMENT OVERSIGHT PROGRAM:
CONSULTANT SUPPORT****BENEFITS**

The Federal Transit Administration (FTA) requires that NJ TRANSIT, and all grantees, ensure that all current and future contractors are in compliance with the FTA drug and alcohol regulations, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations (49 CFR Part 655). The FTA has stated that oversight plays a vital role in ensuring that grantees and grant sub-recipients have compliant drug and alcohol programs and has directed NJ TRANSIT to implement a rigorous oversight program regarding its contractors to ensure compliance. This authorization will enable NJ TRANSIT to comply with this Federal mandate.

PURPOSE

Authorization will enable NJ TRANSIT to continue its Substance Abuse Management Oversight Program in accordance with FTA requirements for a rigorous oversight of NJ TRANSIT's transportation service contractors regarding compliance with FTA drug and alcohol testing requirements. This consultant agreement supporting the Substance Abuse Management Oversight Program will initially cover service providers under NJ TRANSIT's Bus Allocation Program and Contracting Out Program, which were covered under a recently expired consultant agreement, and the service providers for Access Link, Hudson Bergen Light Rail, and the River LINE that are not presently under a Substance Abuse Management Oversight Program. Beginning in January 2005, when a separate consultant agreement expires, the service providers for NJ TRANSIT's Community Shuttle and Local Support Programs will also be covered by this agreement. The packaging of all of NJ TRANSIT's transportation service contractors under one consultant agreement for NJ TRANSIT's Substance Abuse Management Oversight Program will ensure consistency of oversight activities, and provide the economies of size as compared to separate agreements for these contracted services.

ACTION (Justification: FTA Mandate)

Staff seeks authorization to contract with Penn Services Group, Inc. of Exton, PA for the performance of professional services related to NJ TRANSIT's Substance Abuse Management Oversight Program at a total cost not to exceed \$256,655, plus five percent for contingencies. Staff also seeks authorization to exercise an option to extend this contract for an additional two-year period, in accordance with the Request for Proposals (RFPs) and the contractor's proposal, at a cost not to exceed \$126,900, plus five percent for contingencies.

This item has been reviewed and recommended by the Board Administration Committee

FISCAL IMPACTS

Requested Authorization:	\$383,555 + 5% contingency (includes two-year option period)
Total Project Cost:	\$383,555
Projected Date of Completion:	December 31, 2009
Anticipated Source of Funds:	Fiscal Years 2005 – 2010 Operating Budgets
DBE Goal/Participation:	None
Related/Future Authorizations:	N/A
Impact on Subsequent Operating Budgets:	N/A

RESOLUTION

WHEREAS, as a recipient of Federal funds through the Federal Transit Administration (FTA), NJ TRANSIT is subject to the FTA drug and alcohol regulations, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations (49 CFR Part 655); and

WHEREAS, the FTA requires that NJ TRANSIT ensure that all current and future contractors are in compliance with the FTA's drug and alcohol regulations; and

WHEREAS, the FTA has stated that oversight plays a vital role in ensuring a grantee, or grant sub recipient, has a compliant drug and alcohol program and has directed NJ TRANSIT to implement a rigorous oversight program regarding its contractors to ensure compliance with FTA drug and alcohol regulations; and

WHEREAS, following a competitive procurement process, it was determined that Penn Services Group, Inc. has the expertise to perform the required oversight services on behalf of NJ TRANSIT and enable NJ TRANSIT to comply with this Federal mandate; and

WHEREAS, NJ TRANSIT staff have evaluated contractor proposals and has determined the proposal from Penn Services Group, Inc. to be the most responsive and recommends that Penn Services Group, Inc. be awarded a contract to perform the required oversight services;

NOW, THEREFORE, BE IT RESOLVED that the Chairman or Executive Director is authorized to execute an agreement with Penn Services Group, Inc. of Exton, PA for the performance of professional services related to NJ TRANSIT's Substance Abuse Management Oversight Program at a total cost not to exceed \$256,655, plus five percent for contingencies; and

BE IT FURTHER RESOLVED that the Chairman or Executive Director is authorized to exercise an option for a two-year period under the contract with Penn Services Group, Inc. at a total cost not to exceed \$126,900, plus five percent for contingencies; and

BE IT FURTHER RESOLVED that funding of these agreements shall be subject to the availability of funds and Board approval of NJ TRANSIT's Operating Budget.