

SUBSTANCE ABUSE PROGRAM

The Local Unions signatory to this Agreement and the Port of Seattle have agreed on this Substance Abuse Program (“Program”) for application to all Contractor craft personnel, union and non-union, working on a Port of Seattle Project Labor Agreement projects.

This Program supersedes any policies negotiated for any other work outside of the projects by Contractors and the Unions that might otherwise apply. Nothing in this Agreement is intended to supersede or diminish more restrictive controlled substance or alcohol regulations imposed by federal or state agencies upon specific employee groups or categories of employees who are also covered by this Program. The full Agreement shall be made available to any Union Representative or to project employees upon request.

The intention of this Program is to establish the projects as a drug and alcohol- free workplace in order to assure safe and productive working conditions with due regard for the personal privacy interests of project employees. It is not the intention of the parties that any Contractor intrude on off-duty activities of project employees away from the project site unless those activities have a job-related impact. The circumstances permitting controlled substance and alcohol testing in this Program have been carefully defined and intentionally restricted. The Port’s Substance Abuse Coordinator (Coordinator) will retain oversight over the Program and the Approved Substance Abuse Program Administrator (Administrator) will administer the testing program and services. The Port will consider the use and application of a local Union policy that the Port, in its discretion determines that it satisfies the standards set for these projects as contained in this appendix. If approved, it shall be used only for employees represented by that local Union.

SUMMARY

Unauthorized use, possession or sale of controlled substances, including marijuana or alcohol on the projects is prohibited. Persons who violate this rule or who are convicted for selling, using, or possessing controlled substances off the job will not be permitted to work on the project. If convicted in any court of law, the person will notify their employer within one (1) working day of the conviction. The employer will then notify the Administrator and the Coordinator. Failure of an employee/applicant to report a conviction to its employer will lead to prohibition from the project for up to one (1) year. Applicants for project employment will be subject to pre-employment controlled substance, alcohol and adulterant testing. Thereafter, employees will be subject to reasonable cause, post-accident, random and return-to-work/follow-up testing for the presence of controlled substances, alcohol or adulterants in their systems.

Employees who report for work with alcohol, adulterants or unauthorized controlled substances in their system will not be permitted to remain on the project. Employees who violate the substance abuse policy and applicants who fail the pre-employment testing, will be denied employment and will not be eligible for reassignment to any Contractor on the projects until a period of not less than ninety (90) calendar days has passed and the employee/applicant has successfully completed an approved counseling or rehabilitation program covered by the individuals medical benefits, at the employee’s expense.

An employee/applicant will be deemed to have “successfully completed” an approved counseling or rehabilitation program covered by the individual’s medical benefits when the Administrator is provided written documentation from the approved agency/organization that the employee/applicant has met all of the Program requirements. Such employees/applicants shall be subject to pre-employment, random and periodic controlled substance, adulterant or alcohol testing thereafter for up to one year. The program will apply to all Contractor craft personnel, union and non-union, at all construction sites covered by a Port of Seattle Project Labor Agreement. Special safeguards have been undertaken to assure that testing will be conducted by licensed laboratories, under the strictest federal guidelines, with special provisions to assure test reliability, employee privacy and confidentiality. All testing will be conducted only by laboratories approved by the Substance Abuse and Mental Health Services Administration ("SAMHSA") (formerly the National Institute of Drug Abuse, or "NIDA") in accordance with the Mandatory Guidelines for Federal Workplace Testing Programs established by the U.S. Department of Health and Human Services, as amended.

CONTROLLED SUBSTANCES

For purposes of this Program, "controlled substances" shall include any illegal drugs according to federal law, such as cocaine, marijuana, including any medically prescribed marijuana, opiates, phencyclidine (PCP) and/or amphetamines, which may alter or affect an individual's motor functions or mental capacity. This appendix lists the controlled substances and the threshold levels for which an employee/applicant will be tested. Threshold levels of categories of controlled substances listed by DOT constituting positive test results shall be determined using the applicable SAMHSA threshold levels in effect at the time of the testing. The schedule of controlled substances to be tested on these projects and their threshold levels are listed in this appendix and shall be updated periodically to reflect SAMHSA and industry threshold changes.

PRESCRIPTION AND OVER-THE-COUNTER MEDICATION ABUSE

Abuse of a drug or medication prescribed by a duly licensed health care provider, over-the-counter drug or medication, health supplement or designer and synthetic drug which may alter or affect an individual’s motor function or mental capacity is prohibited and will be treated for the purposes of this Program as a controlled substance.

Employees may maintain on project premises prescription and over-the-counter medications provided:

- 1) The prescription is written by a licensed health care provider for current use by the person in its possession and the medication is in its original container and in the employee’s name.
- 2) Employees must not consume prescribed or over-the-counter medications more often or in greater dosages than as prescribed by the employee's health care provider or as per the instructions and they must not allow any other person to consume the prescribed medication.
- 3) Where an employee has been informed that the medication could cause adverse side effects while working or where the medication, either prescribed or over-the-counter, indicates such a

warning, the employee must inform the Contractor prior to using such substances on the job. The use of a medication prescribed by a licensed health care provider for the individual employee is permitted, provided that it will not affect work performance. However, the Contractor at all times reserves the right to have a licensed health care provider determine if use of a prescription medication by an employee may produce effects which may increase the risk of injury to the employee or others while working. If such a finding is made, the Contractor may check with the prescribing health care provider (with permission of the employee) to see if other medications are available which would not seriously affect the employee's ability to work safely. If appropriate substitute medication is not available, the Contractor may limit or suspend the work activity of the employee during the period that the licensed health care provider advises that the employee's ability to perform his job safely may be adversely affected by the consumption of such medication.

4) Any employee who tests positive for a prescribed medication or whose work site performance or behavior has been impaired or affected by the use of a prescribed or over-the-counter medication will be found in violation of this Agreement unless proper notice has been given as required by paragraph 3 above.

5) The parties to this agreement acknowledge and agree that in accordance with Federal Guidelines, marijuana or prescribed "medical marijuana" under a state law is not a valid medical explanation for an employee's positive drug test result.

ADULTERATED, SUBSTITUTED, INVALID RESULT OR DILUTE SPECIMENS

This Substance Abuse Prevention Policy will adhere to guidelines established in SAMHSA Public Document 035 dated September 28, 1998, and any updates thereto for determining the validity of a specimen.

An employee/applicant submitting a specimen for which an approved testing laboratory reports the existence of an "adulterant", "interfering substance" and/or "masking agent" or the sample is identified as a "substituted specimen" will be deemed in violation of this Agreement and will be processed as if the test results were positive. Those employees/applicants for whom the testing laboratory reports an "adulterated", "interfering substance", "masking agent" or "substituted" specimen will be prohibited from the projects for not less than ninety (90) calendar days and the employee/applicant will be required to successfully complete an approved rehabilitation program covered by the individuals applicable medical benefits. The guideline issued in PD 035, in the SAMHSA September 28, 1998 memo uses the following reporting protocols:

Adulterated Specimen: Nitrate, pH and foreign substance is present.

Substituted Specimen: Does not exhibit the clinical signs or characteristics associated with normal urine.

Invalid Result Specimen: Unable to obtain a valid result or possible unidentified adulterant.

Dilute Tests: Specimens identified by the testing laboratory as dilute will require the employee/applicant to be retested. A second consecutive retest indicating a dilute specimen will require the employee/applicant to be prohibited from working on the projects for a minimum of ninety (90) calendar days. Refusal to retest or noncompliance with drug testing procedures will result in the employee being prohibited from working on the projects for at least ninety (90) calendar days. In all instances, such employee will not be allowed work on the projects until he/she has successfully completed a drug and alcohol test.

ALCOHOL

Alcohol tests shall be by breathalyzer. The Administrator shall conduct the breathalyzer test in accordance with Washington State Law. The threshold for breath alcohol shall be 0.02%. A test result below 0.02% shall be considered a negative test result. A test result between 0.02% and 0.40% shall disqualify the employee from work for 8 hours, after which the employee may re-test. A test result above 0.04% shall disqualify the employee from working on the project for at least ninety (90) calendar days and the employee/applicant has successfully completed an approved counseling or rehabilitation program covered by the individual's medical benefits, at the employee's expense.

JOB APPLICANTS

- 1) All offers of employment for project positions will be conditional until the applicant has satisfactorily completed a controlled substance and alcohol test. Specimens will be collected during in-processing on the project site or at a designated off-site location prior to the commencement of any work on the project, but not more than twenty-four (24) hours prior to the commencement of any work. Applicants will be on the clock for all time spent in-processing, including specimen collection, with a minimum of four (4) hours paid show-up time. **Four (4) hour show-up time is contingent upon successfully completing the drug testing procedure, if required.**
- 2) Applicants for project positions will be permitted conditional access to the projects pending receipt of final test results. If test results are confirmed positive for controlled substances without a valid prescription, alcohol or adulterants, the employee will be barred from the projects immediately. Such employees will be paid for all time worked. An applicant with a confirmed positive test may request in writing, from the Administrator, a copy of the drug test result.
- 3) Any conditional employee so barred will not be eligible for reapplication for employment on the projects until a period of not less than ninety (90) days has passed and the employee has successfully completed an approved counseling or rehabilitation program covered by the individual's applicable medical benefits, at the employee's expense. Before being hired, any such employee must provide written documentation of successful passage of the counseling or rehabilitation program to the Administrator and must complete a controlled substance and alcohol test. Upon the successful completion of such a subsequent test, the applicant will be eligible for assignment to the projects provided the applicant further agrees in writing to submit thereafter to periodic controlled substance or alcohol testing. Such periodic testing will be

conducted for up to one year after the applicant is assigned to the project, in addition to any other testing provided for in this Agreement.

4) Any applicant who receives a negative result on his pre-employment controlled substance and alcohol test will not be required to submit to a second pre-employment test within one (1) year of the first such test and will be issued a Port of Seattle drug testing “clean card”. Re-employment after the anniversary date that the clean card is issued will require the applicant to submit to normal pre-employment requirements. An employee who is issued a clean card will continue to be subject to reasonable cause, post-accident, random and return-to-work, and follow-up testing.

5) Refusal on the part of any applicant or employee to comply with the testing procedure will disqualify the applicant or employee from consideration for continued employment on the project for not less than ninety (90) calendar days. The employee will be paid for the time spent in-processing only.

ACTIVE EMPLOYEES

All craft personnel are subject to a controlled substance or alcohol test while on the job or in a job status (such as on Contractor- or Owner-provided transportation) for the following reasons:

a) **Reasonable Cause Testing:** An employee will be escorted and tested for reasonable cause when specific, reliable objective facts and circumstances are sufficient to warrant a prudent person to believe that the employee more probably than not may have used a controlled substance or alcohol as evidenced by work performance, behavior or appearance while on the job site. If reasonable cause results from an observation, the observation must be confirmed by a second member of Contractor supervision and those on-site representatives will endeavor to consult with the prime Contractor's Safety Representative or designee. The Contractor will notify the Port's Substance Abuse Coordinator and the Administrator within one (1) working day of directing the employee to a reasonable cause test.

b) **Post-Accident Testing:** Any employee who is involved in an accident in the course of job duties which involved use of vehicles, heavy equipment, power tools or other dangerous instrumentalities or working conditions and which resulted in injury or property damage will be tested in cases where the designated Contractor safety representative or a Port designee concludes that:

1) the accident was caused by human error or could have been avoided by reasonably alert action.

2) the employee to be tested was an active participant in the accident circumstances.

3) use of a controlled substance or alcohol or abuse of a prescription or over-the-counter drug cannot be discounted as a contributing factor.

Any employee directed for post-accident testing shall be entitled to request the presence of a Union steward in pre-test meetings with Contractor management, provided a Union steward is readily available and the circumstances allow. The Contractor will notify the Coordinator and the Administrator within one (1) working day of directing the employee to drug and alcohol test following an accident.

(c) **Random Testing:** The Administrator, on behalf of the Port's Coordinator will conduct periodic random testing of regular employees for controlled substances and alcohol. Employees will be selected for testing by lottery; to be conducted solely by the Coordinator and Administrator. Up to fifty percent (50% of current employees will be randomly tested annually. Such testing will be in addition to any other testing identified in this Agreement.

(d) **Return-To-Work Testing:** An employee who has submitted a positive drug, adulterant or alcohol test for work on the projects and who seeks to return to work on the projects after successfully completing all other program requirements, will consent and submit to periodic testing for up to one (1) year from his/her return. These tests are in addition to any reasonable cause, post-accident and random testing requirements.

Employees removed from duty for reasonable cause and post-accident testing will remain off duty until test results are received. If the employee tests negatively, the employee will be reinstated with full back pay for lost time. Employees required to present for random testing will remain on duty unless and until the employee tests positively for a controlled substance and/or alcohol.

If the employee tests positively, the employee will be barred from the projects effective the date and time of the specimen collection. Any employee so barred will not be eligible for reemployment on the projects until a period of not less than ninety (90) calendar days has passed, and the employee has successfully completed an approved counseling or rehabilitation program covered by the individual's applicable medical benefits, at the employee's expense. Before being rehired, any such employee must provide documentation of successful completion of the counseling or rehabilitation program to the Administrator and must complete a controlled substance test conducted by an approved laboratory.

COLLECTION PROCEDURES

An employee/applicant dispatched to the projects will present himself/herself for collection. The specimen will be divided into a split sample in the presence of the employee/applicant. Urine specimens shall be collected in such a manner as to give the employee/applicant as much privacy as possible without degrading the reliability of the test.

An employee/applicant undergoing urine testing will be given a maximum of three (3) hours at the collection site to produce a valid specimen. All breathalyzer tests shall be conducted immediately upon the employee's/applicant's presentation for the test. Failure to produce a valid specimen constituting no less than 45ml of urine in one void within this time frame or to submit to the breathalyzer test will result in the employee being considered as "refusing to test" and he will be prohibited from working on the projects for not less than ninety (90) calendar days and until he/she successfully passes an approved drug and alcohol test.

An employee/applicant who cannot produce a valid specimen within the three (3) hour time frame may contact the Medical Review Officer (MRO) for review of his/her circumstance. The MRO may refer the employee/applicant for a medical evaluation to a physician designated by the MRO to determine if there is a valid medical reason that would prevent the employee/applicant from providing a sufficient specimen. If the MRO finds documented evidence of a valid medical reason for failing to provide a sufficient specimen, he/she may authorize the employee/applicant to present himself/herself for a new collection, at no expense to the employee/applicant. The employee/applicant is responsible for all expenses pertaining to the medical evaluation.

TEST PROCEDURES

Testing procedures, including controlled substances to be tested, specimen collection, chain of custody and threshold and confirmation test levels shall comport with the Mandatory Guidelines for Federal Workplace Testing Programs established by the U.S. Department of Health and Human Services, as amended and the Federal Motor Carrier Safety Act regulations, where applicable. Controlled substance tests shall be conducted only by laboratories licensed and approved by SAMHSA, which comply with the American Occupational Medical Association (AOMA) ethical standards.

Controlled substance tests shall be by urinalysis and shall consist of two procedures, a screen test (EMIT or equivalent) and if that is positive, a confirmation test (GC/MS or equivalent). An alcohol test shall be given by breathalyzer.

An employee/applicant presenting himself/herself at a Port approved drug collection site must have a minimum of one piece of government-issued photo identification and may not leave the collection site for any reason - unless authorized by the collection agency – until he/she has fully completed all collection procedures. Failure to follow all collection procedures (non-compliance) will result in the employee/applicant being classified as “refusing to test” and being prohibited from working on the projects for a minimum of ninety (90) calendar days from the date of the scheduled test. The Administrator and/or Coordinator reserves the right to deem any act viewed as non-compliant with the Substance Abuse Program as grounds for ineligibility for employment on all Port of Seattle Project Labor Agreement projects. Such instances may include, but are not limited to the following:

- Refusal to perform the pre-hire substance abuse test
- Failure to produce a specimen in accordance to testing procedures
- Reasonable suspicion for the adulterating of test specimens
- Failure to appear for any test required by this agreement after being directed to do so by your employer
- Failure to remain at the testing site until the testing process is complete

TEST RESULTS

Any positive test for controlled substances, alcohol or an adulterant shall be reported to a Medical Review Officer (MRO) appointed by the designated laboratory. The Medical Review Officer shall review the test results and any disclosure made by the employee/applicant and shall

attempt to interview the employee/applicant to determine if there is any physiological or medical reason why the result should not be deemed positive. If no extenuating reasons exist, the MRO shall designate the test positive. The MRO will make good faith efforts to contact the employee/applicant, but failing to make contact within two (2) working days, may deem the employee's/applicant's result a "lab positive". After the issuance of a lab positive, the employee/applicant will be barred from the projects until the employee/applicant makes contact with the MRO and the MRO sends the Administrator a written confirmation of a negative result.

If the MRO declares the test positive or adulterated, notification shall be provided, in writing, to the Administrator. The Administrator shall keep test results in confidence. A limited notification will be provided to the Contractor, by the Administrator solely reporting that the employee is "ineligible" for further employment. The Contractor shall have no access to individual test files. In addition, the Administrator shall contact the appropriate Union representative and advise him/her of the employee's ineligibility status for work on the project. The Unions shall keep the test results in confidence and only use the results to determine the eligibility of the member to be re-dispatched to a Port of Seattle Project Labor Agreement project. If written notification of termination is required, the Administrator will state that the employee is "in violation of the Port of Seattle Substance Abuse Testing Policy".

RE-TESTS

In the event of a positive controlled substance test, an automatic confirmation test will be performed on the original specimen by the testing laboratory at no cost to the employee. In addition, the testing laboratory shall preserve a sufficient specimen to permit independent re-testing at the request of the employee at his/her expense. Re-tests may be conducted by the same or any other -approved laboratory. The laboratory shall endeavor to notify the MRO of positive controlled substance test results within five (5) working days after receipt of the specimen. The employee may request a re-test within five (5) working days from notice of a positive test result by the MRO. Costs of re-tests will be paid in advance by the requesting party.

CONSENT FORMS

Employees must execute a written consent, to submit to the test and for the testing laboratory to release the report of test results to the Administrator. Failure to sign the appropriate release form or to comply with testing procedures otherwise will result in the employee or applicant being barred from the projects for not less than ninety (90) calendar days.

SUBSTANCE ABUSE ADMINISTRATOR

The Port shall designate a Substance Abuse Coordinator to monitor compliance with this Agreement. The Coordinator will designate a Third Party Administrator to provide assistance to project employees with questions concerning controlled substance or alcohol test procedures. Availability of an approved counseling or rehabilitation covered by the individual's applicable medical benefits or any other substance or alcohol related matters. All inquiries to the Administrator will be confidential. The parties are willing to help employees with substance

abuse problems. The Administrator, on behalf of the Coordinator will be prepared to assist employees in discussing and locating available counseling, and rehabilitation.

The Administrator, on behalf of the Coordinator shall maintain records of all individuals tested with eligible/negative or ineligible for employment results that shall be made available for review to the Coordinator during inspections or audits. The Administrator, on behalf of the Coordinator shall review records of previously tested ineligible job applicants/employees to determine the current eligibility of the person to be tested. If the person has been listed as ineligible as of their most recent test, the Administrator will verify that the 90-day ineligible period has expired. Such employee/applicants shall be subject to pre-employment, random, and return-to-work/follow-up controlled substance, drug, adulterant or alcohol testing thereafter. The Administrator, on behalf of the Coordinator shall also notify the Contractor and the affiliated union of "Refusals," positive tests for controlled substances and/or alcohol tests within 48 hours of ineligibility.

The Administrator shall provide the Coordinator with daily reports of tested and ineligible applicants/employees. These reports will be kept in confidence for the purpose of monitoring.

EMPLOYEE ASSISTANCE PROGRAMS

The Administrator and Coordinator will work with the signatory Unions to develop an agreed upon list of counseling and rehabilitation programs to be used by employees / applicants who test positively for controlled substances, alcohol or adulterants. The cost of counseling and rehabilitation will be the responsibility of the employee/applicant.

APPEAL PROCEDURE

Any disputes involving application of this Program shall be referred to the Dispute and Grievance Procedure established in this Agreement. Such disputes may be initiated at Step 2. Nothing in the grievance procedure may void the application of this Substance Abuse Program.

SAVINGS AND SEVERABILITY

It is not the intention of the Unions or the Port of Seattle to violate any applicable federal or state laws by enactment of this Program or in its application. In the event any provisions of the Program are held to be illegal or void as being in contravention of any law, the remaining provisions shall remain in full force and effect. The parties agree further to meet promptly to commence negotiations concerning the provision affected by such decision for the purpose of achieving conformity with the requirements of the applicable law and the intent of the parties hereto.

REVISIONS OR AMENDMENTS

No revisions or amendments shall be made to this Program except with the written approval of the parties hereto. This Program shall be effective upon the mutual signing of the Agreement,

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and shall remain in effect for the duration of the projects unless terminated or amended by mutual consent.

SUBSTANCE ABUSE AND DETECTION THRESHOLD LEVELS

CONTROLLED SUBSTANCE	METHOD	SCREENING LEVEL	SCREENING
Amphetamines		EMIT	500 ng/ml**
Barbiturates		EMIT	300 ng/ml
Benzodiazepines		EMIT	300 ng/ml
Cocaine		EMIT	150 ng/ml**
Methadone		EMIT	300 ng/ml
Oxycodone Screen		EMIT	100 ng/ml
Opiates		EMIT	2000 ng/ml**
PCP (Phencyclidine)		EMIT	25 ng/ml**
THC (Marijuana)		EMIT	50 ng/ml**
Propoxyphene		EMIT	300 ng/ml
Alcohol		Breathalyzer	.04 Percent

	CONFIRMATION METHOD	CONFIRMATION LEVEL
Amphetamines	GC/MS	250 ng/ml**
Barbiturates	GC/MS	200 ng/ml
Benzodiazepines	GC/MS	300 ng/ml
Cocaine	GC/MS	100 ng/ml
Methadone	GC/MS	100 ng/ml**
Oxycodone Screen	GC/MS	100 ng/ml
Opiates	GC/MS	2000 ng/ml**
PCP (Phencyclidine)	GC/MS	25 ng/ml**
THC (Marijuana)	GC/MS	15 ng/ml**
Propoxyphene	GC/MS	100 ng/ml
Alcohol	Breathalyzer	.04 Percent

* All controlled substance including their metabolite components

** SAMHSA specified threshold

A sample reported positive contains the indicated drug at or above the cutoff level for that drug. A negative sample either contains no drug or contains a drug below the cutoff level. Testing levels may be changed to meet SAMSHA or revised industry standards.

EMIT – Enzyme immunoassay

GC/MS – Gas Chromatography/Mass Spectrometry

