

# UA L32/MCAWW

U.A. LOCAL 32 PLUMBERS AND PIPEFITTERS  
Mechanical Contractors Association of Western Washington  
(MCAWW)

## SUBSTANCE ABUSE TESTING AND TREATMENT POLICY AND PROGRAM

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**Mechanical Contractors Association**  
WESTERN WASHINGTON

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# UA/MCAA/MCAWW SMART DISPATCH MODEL SUBSTANCE ABUSE TESTING &TREATMENT POLICY AND PROGRAM

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## I. PROGRAM OBJECTIVE

The undersigned union(s) and employers are committed to establishing and maintaining a drug free workplace for every employee, covered under the Collective Bargaining Agreement (CBA). As such, the objective of this Substance Abuse Testing & Treatment Policy and Program (Policy and Program) is to provide consistent, fair, and manageable procedures for drug and alcohol screening of applicants and employees that will be accepted by participating contractors and job site Owners, to maintain a central database of participating individuals in order to expedite their employment and access to job sites, and to ensure that participating individuals with substance abuse problems have access to substance abuse treatment.

The purpose of the Policy and Program is to increase on-the-job safety and ensure high quality services and productivity to customers by denying job site presence to individuals whose abilities are impaired by drugs or alcohol or have otherwise violated this policy. The types of testing conducted under this Policy and Program will involve implementation, pre-employment, pre-access, random, post-accident/incident, reasonable cause/suspicion, periodic, return to work, and probationary status/follow-up testing. This Policy and Program, along with any Employee Assistance Program (EAP) that may be in effect, will:

1. Help produce a safe, healthful and drug-free work place for all employees;
2. Increase Union market share with Owners/Customers;
3. Educate employers and employees on the signs, symptoms and consequences of substance abuse;
4. Improve work place safety and reduce substance abuse-related injuries and property damage;
5. Reduce substance abuse-related absenteeism and tardiness;
6. Provide employees with substance abuse problems with the appropriate care and assistance;
7. Deter individuals from bringing, possessing, using, distributing or having in their systems alcohol or other drugs on work time or premises;
8. Improve the image of our industry;
9. Improve productivity and service quality.

## II. DEFINITIONS

As used in this Policy and Program, the following terms shall have the following meaning:

1. "Accident" – Any event resulting in injury to a person requiring outside medical care or treatment or property damage to which an employee contributed as a direct or indirect cause.
2. "Adulterated Test Result" - The donor has tainted the specimen with a foreign contaminate, such as bleach, to prevent the detection by the laboratory of an illegal or controlled substance. An adulterated sample is considered an administrative positive and has the same consequences as a confirmed positive test result.
3. "Alcohol" – The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.
4. "Applicant" – Any individual who will perform work and has been referred for hire by a labor local or a person selected through a direct hire process. As a condition of employment, applicant must meet the applicable conditions of this policy prior to employment.
5. "Breath Alcohol Technician" – A person trained to proficiency and certified in the use of Evidential Breath Testing device (EBT) in a DOT course.
6. "Communicator" – Employer and/or Union Representatives designated by the Employer and/or Union to preserve the confidentiality of employee's drug testing information. The Employer and Union is required to designate both a Primary Communicator and Alternate Communicator. Same as a Designated Employer Representative (DER)
7. "Company Premises" – Any and all property, facilities, land, parking lots, structures, and vehicles owned, leased, used or under the control of the Contractor, and any job site to which the Contractor assigns any Employee.
8. "Designated Employer Representative (DER): is an individual identified by the employer as able to receive communications and test results from the Third-Party-Administrator and other service agents and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the company.
9. "Diluted Test Result" - A diluted test result means that the specific gravity of the specimen is 1.003 or less and the creatinine level is less than 20 mg/dl. The following are some of the causes for a diluted sample and the related procedures:

### Causes

- a. Dialysis or chemotherapy
- b. A kidney or pancreas disorder requiring medical attention.
- c. The individual is attempting to flush out their system of illegal substances. This requires an enormous amount of water to be consumed over approximately twenty-four (24) hours prior to providing a sample. The normal consumption of liquids or consuming liquids prior to testing will not cause a sample to be diluted.
- d. Unintentional over hydration

## Procedures

- a. A diluted specimen with a creatinine level of less than 20 mg/dl but greater than 5 mg/dl will require the employee to provide another sample.
  - b. A diluted specimen with a creatinine level greater than or equal to 2 mg/dl, but less than or equal to 5 mg/dl will require the employee to provide another specimen under direct observation.
  - c. A diluted specimen with a creatinine level of less than 2 mg/dl will be ruled as a substituted specimen and will have the same consequences as a positive test result.
10. "EAP" – Employee Assistance Program offered in conjunction with this Policy and Program which shall provide referrals and assistance to participating individuals with substance abuse problems.
  11. "Employee" – Any individual employed by the Employer who directly or indirectly performs work for a Customer.
  12. "Employer"-Any person, firm, partnership, joint venture, corporation, or other business entity that is signatory to the L32- MCAWW LMA and has a signed a compliance agreement for participation in this plan.
  13. "GERTRD" stands for Global Electronic Reporting of Test Results and Data. This is a proprietary, secure, encrypted web-based software program used to report drug and alcohol testing information.
  14. "Unauthorized Drugs" – Any controlled substance and/or the use of a controlled substance by an individual other than the individual for whom the controlled substance was prescribed or the abuse of a controlled substance by the individual for whom it was prescribed.
  15. "Incident" - An event which has all the attributes of an accident, except that no apparent or perceived harm was caused to person or property.
  16. "Controlled Drugs /Controlled Substances)" -A drug or chemical substance whose possession and use are regulated under the federal Controlled Substances Act.
  17. "Medical Review Officer (MRO)" - All urine samples confirmed, as non-negative by the laboratory shall be referred to a Medical Review Officer for interpretation and final confirmation. The MRO is a licensed physician who has knowledge of substance abuse disorders and has received the appropriate medical training to interpret and evaluate an individual's positive test result as it relates to the Employee's medical history and any other biomedical condition.
  18. "Negative Test Result" - A negative result indicates that the alcohol level is below .02 BAC (minimum requirement) and/or an illegal/unauthorized substance above the levels as described in this Policy and Program, has not been detected in the person's specimen by the laboratory.
  19. "Non-bargaining Unit Employees (NBU Employees)" - Those Employees of a participating Employer, or applicants for employment, who participate in this Program and work within the

same geographical area as the bargaining unit Employees but who are not covered by an applicable collective bargaining agreement.

20. "Not Consistent with Human Urine or Substituted Test Result" - This test result is self-explanatory and is determined by the laboratory. A not consistent with human urine or substituted test result has the same consequences as a confirmed positive test result.
21. "Positive Test Result" - A positive test result indicates that the alcohol level is .02 BAC or above and/or the laboratory and MRO have confirmed an unauthorized drug(s) in the person's system as described in this Policy and Program.
22. "Possession" - Actual or constructive care, custody, control or immediate access to controlled substances I or unauthorized drugs.
23. "Prohibited Substances and Items" include:
  - a. Controlled substances or legal drugs that have not been legally prescribed (under both state and/or federal law) for the individual and controlled substances, "look-alike", designer and synthetic drugs and mood or mind altering substances;
  - b. Prescribed drugs used in a manner inconsistent with the prescription; and
  - c. Alcoholic beverages
  - d. Notwithstanding any other provision in this policy, the use of prescription and non-prescription medication is not a violation of this policy if that medication is taken in accordance with a lawful (under both state and federal law) prescription or standard medical dosage recommendation. The use of marijuana, which is a Schedule I controlled substance under federal law (Controlled Substances Act, 21 USC § 812), is expressly prohibited under this policy even if its medical use is authorized under state law. Passage of I-502, which went into effect on December 6, 2012, does not affect this drug testing program in any way. The use of marijuana is still prohibited by the program's policy which applies to all employees.
24. "Reasonable Suspicion" - A belief based on objective and articulated written facts sufficient to lead a supervisor, who has received the proper training, to suspect that drugs or alcohol might influence an individual's behavior.

Reasonable Suspicion shall be defined as aberrant or unusual on-duty behavior of an employee who:

- a. is observed on-duty by either the employee's immediate supervisor trained in accordance with this policy, or other managerial personnel of the contractor who has been trained to recognize the symptoms of drug abuse, impairment or intoxication, which observations shall be documented by the observers;

- b. exhibits the type of behavior which shows accepted symptom(s) of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances or alcohol; and
- c. exhibits conduct that cannot be reasonably be explained as resulting from other causes, such as fatigue, lack of sleep, side effect of prescription or over-the-counter medications, illness, reaction to noxious fumes or smoke.

Exhibit 1, Reasonable Cause/Suspicion Documentation, should be utilized when an Employee is suspected of alcohol and / or drug use by actions, appearance or conduct, which constitutes a major change in the person's appearance and/or behavior. Employees testing for reasonable suspicion shall have the right to have their job steward present during written documentation and testing.

- 25. "Safety Sensitive" - A predictable exposure to operations where failure could result in serious harm to public or employee well-being, company property, or the environment. Supervisors of company personnel are included.
- 26. "Substance Abuse Professional (SAP)" – A Substance Abuse Professional is a licensed physician or certified counselor who has received the appropriate training in substance abuse disorders to provide rehabilitation, assistance and recommendations to individuals who have a drug and/or alcohol problem.
- 27. "Substance Testing" – Drug analysis by means of urine and alcohol analysis by means of breath, urine, blood, and/or saliva.
- 28. "Third Party Administrator" (TPA) – A TPA is an independent third party professional organization that will implement and monitor the Policy and Program and its contents, including, but not limited to, pre-access testing; collection sites; random selection; random testing; auditing of Policy and Program integrity; and updating and maintaining the Policy and Program to keep pace with current and developing trends in the field of substance abuse and screening. (Drug Free Business)
- 29. "Trustees"- Board of Trustees of the Seattle Area Plumbers and Pipefitters Health and Welfare Trust.
- 30. "Under the Influence" - The presence of a PROHIBITED SUBSTANCE in body fluids or breath that affects the individual in any detectable manner. The symptoms of influence may be, but are not limited to, slurred speech or difficulty in maintaining balance. Under the Influence for alcohol refers to a breath alcohol content of .02 or greater (minimum requirement).
- 31. "Union"- UA Local 32
- 32. "Unsuitable Test Result" - The laboratory determines that the specimen contains a foreign contaminate or the individual has ingested fluids to mask the controlled substance/ unauthorized drug but the levels are not in the range to legally determine if the specimen is adulterated or substituted. Some certified laboratories report this as a "Cancelled Test Result".

An unsuitable or cancelled test result will require the individual to provide another sample under observation

33. "Worker Eligibility Status" – An employee's eligibility status with respect to this policy and program is available from the Drug Free Business GERTRD system. A employee's status shall indicate the individual's compliance or non-compliance with the Policy and Program's terms and conditions. The type of status depends on whether the status is obtained from the Drug Free Business GERTRD system as follows:

**GERTRD System Status**

- a. O.K. to Work: employees who have been subject to and have complied with the Policy and Program's terms and who therefore are eligible for immediate placement without having to take another drug test.
- b. Not O.K. to Work: employees who are not in compliance with this Policy and Policy and Program due to, among other things, no test, had a diluted test result or unsuitable test result and/or had a positive test result.
- c. Pending Status: employees who have provided a specimen but the final results have not been received from the laboratory and/or MRO.

### **III. POLICY AND PROGRAM STATEMENT**

1. This is to notify all employees that the use, abuse, or reporting to work under the influence, bringing onto the worksite, the unlawful manufacture, distribution, possession, transfer, storage, concealment, transportation, promotion or sale of unauthorized drugs, controlled substances, alcoholic beverages or drug related paraphernalia by employees is strictly prohibited and is a violation of this Policy and Program and subject to disciplinary action, up to and including immediate termination.
2. Employees using prescription medication, which may impair the performance of job duties, either mental or motor functions, must immediately inform the employer's designated employer representative (DER) of such prescription substance use. For the safety of all employees, the DER will consult with the individual and the individual's physician to determine if a reassignment of duties is necessary. The DER will attempt to accommodate the employee's needs by making an appropriate reassignment if required. However, if a reassignment is not possible, the employee will be placed on temporary medical leave until released as fit for duty by the prescribing physician.
3. GERTRD is utilized to efficiently transmit relevant information to the employer. It is understood that the Union shall not be responsible for ascertaining or monitoring the drug-free or alcohol-free status of any employee or applicant for employment or otherwise ensuring safety on the jobsite.
4. Nothing in this policy overrides the employer's superseding obligation, duty and discretion under OSHA to provide a safe work site.



#### **IV. THE GOVERNING TRUST**

The development, implementation and overall responsibility of this Policy and Program shall be the responsibility of the Board of Trustees of the Seattle Area Plumbing and Pipefitting Industry Health and Welfare Trust. The Trustees shall:

1. Determine operating procedures.
2. Interpret the Policy and Program.
3. Appoint a Third Party Administrator.

#### **V. THIRD PARTY ADMINISTRATOR**

The Trustees will appoint a TPA to administer this Policy and Program. The responsibilities of the TPA shall be:

1. Select and utilize the services of a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) under the Department of Health and Human Services.
2. Select a Medical Review Officer that is licensed by the American Association of Medical Review Officers or Medical Review Officer Certification Council (MROCC).
3. Provide chain-of-custody forms, test kits and collection locations that utilize SAMHSA procedures to insure both proper chain of custody protocols and employee confidentiality is met.
4. Inform the Trustees of revisions to SAMHSA regulations, enhancements to the Policy and Program and new technology in drug and alcohol testing.
5. Maintain appropriate systems, databases, records and administrative procedures to provide participating employers with accurate and timely information as to the donor's eligibility status in order to expedite their employment and access to the Owner's job site.
6. Perform random selections by use of a computer generated numerical software program designed to ensure that no employee is singled out.
7. Notify the appropriate employer or union of employees that have been selected for a random and periodic renewal drug and alcohol test.
8. Notify the designated employer representative (DER) of all test results, positive and negative, if required.
9. Refer individuals, who have provided a laboratory confirmed non-negative test result, to the MRO for interpretation and final confirmation as to whether the urine sample is positive or negative.
10. Ensure that the Substance Abuse Professional has released individuals, who have tested positive, to return to work and that the individuals have provided a negative return to work

drug and alcohol test. Provide notification to the employer indicating that the employee has been released by the SAP to return to duty and that he/she has passed a return to duty drug and/or alcohol test.

11. Ensure that all necessary follow-up/probationary status tests are performed as provided for in the Policy and Program.
12. Provide training to the employers' designated employees and union representatives (Communicators) in their responsibilities and administration of the Policy and Program and to supervisory personnel responsible for determining whether an employee must be tested based on reasonable cause/suspicion.
13. Refer individuals who have tested positive for drugs and/or alcohol to the appropriate Substance Abuse Professional for assessment and if indicated, to the Health and Welfare Program for counseling and/or treatment.
14. Ensure that the Policy and Program complies with applicable Federal, State and local laws.

## **VI. MEDICAL REVIEW OFFICER (MRO)**

The responsibilities of the MRO shall be to:

1. Review the chain-of-custody form to ensure that proper SAMHSA protocols have been maintained.
2. Discuss with the individual, who has provided a non-negative test result confirmed by the laboratory, to allow the individual to provide documentation for any legal/controlled drug(s).
3. Notify the individual of the positive or negative test result.
4. Allow individuals who have provided a confirmed positive drug test result an opportunity to request that their original sample be retested by a SAMHSA certified laboratory of their choice.
5. Follow the Medical Review Officer procedures and requirements for review of test results as outlined in 49 CFR Part 40 of federal regulations.

## **VII. RIGHTS OF EMPLOYEES**

Employees shall have the following rights:

1. Be provided with this Policy and Program prior to being requested to provide a drug and alcohol test.
2. Be allowed the opportunity to discuss with the MRO any medical conditions, prescription medication that the individual is currently taking or has recently taken or any other relevant information to explain the non-negative test result.

3. Be allowed the opportunity to request, in writing, from the MRO a retest of the original sample from a SAMHSA certified laboratory of the individual's choice. This request must be postmarked within seventy-two (72) hours of the date of being notified of the confirmed positive test result. The retest result shall be communicated in writing to the employee. The right to request a re-test shall be provided to each employee at the time the employee is notified of the initial test result.
4. Be reimbursed for the cost of the retest and paid all lost wages and benefits if retest results in a negative test result.
5. Specimen collection may occur on-site or at an off-site clinic provided no loss of wages results. Wages will be the responsibility of the employer.
6. Except for a retest requested and a return to work test, all costs associated with this Policy and Program shall be borne by the employer (unless the costs are paid in an alternative manner).
7. All eligible employees may participate in the Employee Assistance Program offered in conjunction with this Policy and Program.

## **VIII. VOLUNTARY DISCLOSURE**

The Policy and Program recognizes that chemical dependency and other medical behavioral conditions creates serious problems for employee's, their families, the workplace and the community and are highly complex problems, which often can be successfully treated. Each employee is responsible for seeking help before an alcohol or drug problem leads to disciplinary action. The employee's decision to seek assistance (Self-Referral) to a bona fide treatment or assistance program prior to a violation of the Policy and Program will not be used as a basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. Employees are encouraged to contact their Health and Welfare Program for assistance.

Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this program, provided that:

- (1) The Employee does not self-identify in order to avoid testing under the requirements of this section;
- (2) The Employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and
- (3) The Employee does not perform a safety sensitive function until the Employer is satisfied that the Employee has been evaluated and has successfully completed education or treatment requirements in accordance with program guidelines.

## **IX. SUBSTANCE ABUSE TESTING PROTOCOLS**

Employees will be required to undergo substance abuse testing to determine the use of any controlled substance or unauthorized drug, alcohol or substances prohibited by the Policy and

Program.

1. CONFIDENTIALITY: An employee's expectation of privacy and confidentiality is a top priority of this Policy and Program. Accordingly, all testing records will be considered confidential and will only be released upon written consent of the employee, except that such information will be released, regardless of consent, to inform the designated contact person in accordance with this policy that the employee is O.K. to Work, Not O.K. to Work or Pending, and/or to comply with state and federal laws and regulations, and/or upon issuance of a subpoena compelling release of such information from a duly situated and authorized administrative or judicial forum, the parties of a grievance initiated by the employee or union in which the test results are a material issue or to workers compensation carriers and the Department of Labor & Industry (L&I) and Department of Employment Security in which the test results are a material issue.

2. SAMPLE COLLECTIONS: Certified Collection Specialists, Breath Alcohol Technicians, and Saliva Testing Technicians will collect all samples, utilizing Substance Abuse & Mental Health Services Administration (SAMHSA) procedures to insure both proper chain of custody protocols and employee confidentiality are met. All samples will be collected with concern for each employee's personal privacy, dignity, and confidentiality. The TPA shall provide the following three (3) options for drug and alcohol screening collections:

- A. Mobile On-Site Collections: Certified collectors may be available to conduct the substance abuse collections at the job site, the employer's office or union hall.
- B. Clinical Collections: The TPA shall make arrangements with clinical collection sites for testing of employees.
- C. TPA Office Collections: Substance abuse collections may be available when the TPA has an office in the area.

3. TYPES OF TESTING TO BE CONDUCTED:

The following types of testing will be performed:

- A. Implementation Testing: It is the goal of the Trustees to have every covered employee tested for controlled drugs.
- B. Pre-employment Testing: Applicants are subject to drug screening to ascertain whether an applicant is capable of safely performing the duties and meeting the prerequisites of the employment offered.
- C. Pre-Access Testing: Employees shall remain subject to the testing requirements of the Customer for which they are working unless otherwise excluded by the Customer. This includes Projects covered by the BTNDAP Policy.
- D. Random Testing: Employees shall be subject to unannounced random drug testing. Random selections will be made 12 (minimum requirement) times a year at an annualized rate of fifty (50) percent. Random selections will be made by use of a computer generated numerical program designed to ensure that no employee can be

singled out. Upon notification of employee's selected for random testing, DERs shall have thirty (30) calendar days to complete the random testing requirement. Employees must report for random testing immediately as is practical after notification by their DER of their random selection. If Employees do not present themselves for testing immediately as is practical after notification, the test shall be treated as a positive test result.

- E. Post-Accident/Incident Testing: Employees shall be required to take a drug and alcohol test after having been involved in, or after causing, an accident or incident, which caused or could have caused personal injury or damage to equipment or property when there is a reasonable possibility that drug and/or alcohol use contributed to the personal injury, damage to equipment or property, and/or is OSHA/WISHA Recordable. Testing of employees will be consistently/equally applied to all employees. Drug and alcohol testing by use of blood will only be used for post-accident/incident testing and only when the employee is unable to provide a normal urine drug and/or breath screen.
  - 1. If testing under this policy is ever required of an employee who is in need of medical attention, necessary medical attention will not be delayed in order to collect the specimen. However, such an employee shall promptly, upon request, provide the necessary authorization for obtaining hospital reports and records and any other information at the time the need for medical attention and/or testing arose.
  - 2. The Employer will make transportation arrangements for any Employee to be tested following the best-practice guidelines of the Department Health and Human Services (DHHS).
  
- F. Reasonable Suspicion Testing: Employees will be subject to a drug and alcohol test based on reasonable and articulated belief that an employee is using or has recently abused drugs, alcohol or substances prohibited by this Policy and Program. A decision to test will be based on specific physical, behavioral or performance indicators and documented by a supervisor who has received training in the detection of possible symptoms of drugs and alcohol use and must be witnessed by a second supervisor.
  - 1. During the process of establishing reasonable suspicion for testing, the employee has the right to request his on-site representative to be present.
  - 2. The Company will make transportation arrangements for any Employee to be tested following the best-practice guidelines of DHHS.
  
- G. Return to Work, Post Treatment, and Rehabilitation Testing: Individuals shall be required to successfully pass a drug and alcohol test upon release from an approved rehabilitation and/or assessment program prior to being eligible for referral.
  
- H. Probationary Status/Follow-up Testing: Individuals who have previously tested positive for drugs and/or alcohol and upon completion of the Reinstatement Requirements of

the Policy and Program will be subject to additional random testing for a period of up to twenty-four (24) months.

- I. Retest: Individuals receiving a confirmed positive test result shall have the right to request that their original sample be retested by a SAMHSA certified laboratory of their choice. The request must be postmarked to the MRO within 72 hours of the notification of a confirmed positive test result. The employee requesting the retest shall pay the initial cost for a retest in advance to the MRO. The employee shall be furnished in writing the result of the retest. In the event that said retest should prove to be negative, the employee shall be reimbursed for the cost of the test, paid any back wages and benefits lost, and made re-eligible for hire if work is available or reinstated as an employee provided work is available with the contractor.
- J. Federally Mandated Testing: Any employee, for whom testing is mandated under a Federal Substance Abuse Testing Program, will remain subject to such testing notwithstanding the requirements of this Policy and Program.
- K. Other Mandated Testing: Where public and or/private substance abuse testing by an owner is mandated for a particular site that is more stringent than contained in this policy, the more stringent testing requirements shall supersede the testing requirements contained in this policy.

## **X. SPECIMEN ANALYSIS:**

1. All samples collected under this Policy and Program will be analyzed by a SAMHSA certified laboratory, and shall include an initial Immunoassay Screening Test and, when necessary, confirmed by a Gas Chromatography/Mass Spectrometry (GC/MS) Confirmation Test. Said testing must screen, at a minimum, for the following substances and below the following levels to result in a negative test .

Initial screen will be by immunoassay (EMIT or equivalent).

Presumptive positives will be confirmed by gas chromatography/mass spectrometry (GC/MS).

Drug Group	Emit Screen Detection Level* ng/ml**	GC/MS Confirmation Detection Level* ng/ml**
Amphetamines	500	250
Cocaine Metabolites	150	100
Marijuana Metabolites	50	15
Hydrocodone/Hydromorphone	300	100
Oxycodone/Oxymorphone	100	100
Opiate Metabolites (Codeine/Morphine)	2,000	2,000
6-Acetylmorphine (Heroin)	10	10
Phencyclidine	25	25
MDMA (Ecstasy)	500	250
MDA		250
MDEA		250

\*The detection levels indicated represent the lowest cutoff concentration for an analyte within that class. Actual cutoff levels for other analytes within the class may be higher. The *GC/MS Confirmation* amount is the amount reported by the laboratory. Any amount over this is reported as a positive test.

\*\*nanograms/milliliter.

Breath/Blood Alcohol Content (BAC) will be screened and confirmed at .02%

The Policy and Program shall be amended to follow the federal U.S. Dept. of Transportation Guidelines which have become the industry standards for drug and alcohol testing in safety-sensitive positions and to add new drugs (e.g. synthetic opiates) and threshold levels if and when those drugs or threshold levels are changed by the D.O.T.

\*Opiates added on January 1, 2018 to be consistent with DSSH/DOT regulations

2. Employees who provide two (2) subsequent diluted test results under this Policy and Program will be encouraged to seek medical assistance to determine if there is a valid medical reason for the diluted results. If a medical reason cannot be determined or if the employee refuses to seek medical assistance, the third (3rd) or remaining tests (if necessary) will be at the individual's expense
3. If the third diluted test result is also diluted, it will be treated as a positive test under this program.
4. Any employee who provides an unsuitable test result will be required to have subsequent drug tests observed.
5. Blood, saliva or breath screen tests are acceptable for alcohol testing. Saliva screening for alcohol will utilize a device on the NHTSA conforming products list which gives a quantitative reading (a range of alcohol from 0 – 150 mg/dl). If the approved device registers any level equal

to or greater than 20 md/dl (.02%), then a Breath Alcohol Test will be performed. A confirmed screening level less than 20 md/dl (.02%) is considered negative.

## **XI. RECORD KEEPING**

Testing results and other records shall be maintained by the TPA in accordance with federal testing regulations and at least for the following specified periods:

1. Negative test results will be maintained for one (1) year
2. Positive test results will be maintained for five (5) years
3. Rehabilitation records will be maintained for five (5) years

## **XII. EXTENDED ELIGIBILITY FOR SUBSTANCE ABUSE TREATMENT**

Employees may request extended eligibility in the Seattle Area Plumbers and Pipefitters Health and Welfare Trust for the treatment of substance abuse, including EAP benefits, for up to 12 additional months beyond a period of eligibility earned by work in covered employment would otherwise end. Any months of COBRA eligibility count as months toward this twelve-month extension and any employee working in non-covered employment at any time between their last Trust earned eligibility and the date of any treatment would be excluded from coverage.

Extended eligibility for NBU employees who are not eligible for Trust medical benefits is limited to EAP benefits and only for the period of time for which contributions have been received on the NBU employee's behalf.

## **XIII. POLICY AND PROGRAM VIOLATIONS**

An employee's failure to comply with any provisions of the Policy and Program shall be cause for disciplinary action, up to and including immediate termination.

### 1. Determination for Violation of Policy:

- A. A confirmed positive drug or alcohol test result.
- B. Failure or refusal to sign Notice of Policy or any other documentation required by this Policy and Program.
- C. Failure to contact the Medical Review Officer as directed.
- D. Failure to report as directed for testing.
- E. The use, possession, sale or distribution of alcohol or a controlled illegal or unauthorized substance, or the presence of any employee in the work place with such ingested substances for non-medical reasons.
- F. Working, reporting to work, being in the work place, or in a Customer/Employer owned, leased or rented vehicle while Under The Influence Of Alcohol (.02 BAC or greater).



- G. Substitution, adulterating, or attempting to tamper with any sample submitted for drug or alcohol testing, or otherwise interfering or attempting to interfere with the testing process.
- H. Refusal to submit a specimen for testing will be viewed as a positive test and will carry with it the same consequences as specimens tested and confirmed as positive.
- I. The use of a controlled substance by an individual other than the individual for whom the controlled substance was prescribed or the abuse of a controlled substance by the individual for whom it was prescribed.

2. Confirmed Positive Test Results:

A. MEDICAL REVIEW OFFICER NOTIFICATION (MRO)

After the reporting of a non-negative test by the laboratory, it will be necessary for the MRO to speak with the employee to allow the individual the opportunity to provide documentation for any legal/controlled drug(s). Employees who fail to contact the MRO within 2 business days of their notification will be reported as a non-contact positive, and will carry the same consequences as a confirmed positive test.

B. CONTROLLED OR PROHIBITED SUBSTANCES

Any employee who receives a confirmed positive test result as defined by the Policy and Program will be subject to disciplinary action, up to and including immediate termination.

C. ALCOHOLIC OR INTOXICATING BEVERAGES

The following actions of an employee that involve alcoholic beverages are prohibited by the Policy and Program and any violation thereof and the employee will be subject to disciplinary action, up to and including, immediate termination:

- 1) The consumption, manufacture, distribution, possession, use, sale, or storage of any alcoholic beverage while on or in the work place is prohibited.
- 2) The performance or attempted performance of any job function or the operation of any Owner and/or contractor property or equipment while Under the Influence of Alcohol.
- 3) An alcohol screening and confirmation result of .02 BAC or greater.

3. Reinstatement Requirements:

An individual with a confirmed positive test result is not eligible for referral or return to work until all of the following conditions are satisfied and if work is available:

- A. The Substance Abuse Professional (SAP) notifies the TPA in writing that the individual has completed or is actively participating in a Program/Company approved drug and/or

alcohol assessment, treatment, and/or counseling program and that the individual is released to return to duty.

- B. The individual agrees prior to returning to work to submit a drug and alcohol test through the TPA to determine the existence of foreign substances and alcohol within the system and such screening tests is negative. The first return-to-work test will be paid for by the Medical Fund or EAP if provided for by these entities. If not so provided, the cost shall be borne by the employee. The second and all subsequent return-to-work tests will be borne by the individual and must be paid for in advance by the individual to the fund.
- C. The individual agrees in writing to the TPA to continue the prescribed treatment, counseling or rehabilitation as required by the SAP. If the individual does not complete the required treatment, he/she will be subject to disciplinary action, up to and including immediate termination.
- D. The individual agrees to be subject to Probationary Status/Follow-up Testing.

#### 4. Probationary Status/Follow-up Testing:

Upon completion of the reinstatement requirements, individuals will be subject to additional follow-up testing for a period of twenty- four (24) months. During this period, the Policy and Program will conduct up to six of these additional follow-up tests in the first twelve (12) months and/or additional tests during the second year if recommended in writing by the Substance Abuse Professional (SAP). Any policy violation shall be cause for termination.

#### 5. Consequences for Violation for Projects covered by Building Trades National Drug and Alcohol Policy (BTNDAP):

The following consequences, in addition to the above Reinstatement Requirements will apply when an employee is being referred to a Project covered by the BTNDAP Policy but has provided a previous positive test result(s):

- A. *First Violation of Policy:* An employee who tests positive for the first time will be ineligible for employment on all Projects covered by the BTNDAP Policy for thirty days from the date that he/she was notified by the MRO, contingent on a review of an approved, qualified professional in the substance abuse field, approval by the MRO and a negative drug/alcohol test.
- B. *Second Violation of Policy:* An employee who tests positive for the second time will be ineligible for employment on all Projects covered by the BTNDAP Policy for ninety days from the date that he/she was notified by the MRO, contingent on a review of a substance abuse professional, approval by the MRO and a negative drug/alcohol test.
- C. *Third Violation of Policy:* An employee who tests positive for the third time will be ineligible for employment on all Projects covered by the BTNDAP Policy for one year from the date that he/she was notified by the MRO, contingent on a review of a substance abuse professional, approval by the MRO and a negative drug/alcohol test.

- D. *Violations of the Policy Greater than Three*: Each positive result greater than three will result in an additional one year ineligible period for each violation from the date that he/she was notified by the MRO, contingent on a review of a substance abuse professional, approval by the MRO and a negative drug/alcohol test.

#### **XIV. INSPECTIONS**

Where reasonable suspicion exists that an employee is under the influence of alcohol or a controlled illegal or unauthorized substance or has violated the policy pertaining to the possession, sale or distribution of alcohol or a controlled illegal or unauthorized substance, such employee shall be subject to an unannounced inspection for unauthorized drugs, controlled substances, or alcohol on the contractor's or owners premises. Such inspections may include, but are not limited to an employee's work area, locker, lunch box, purse, vehicle and any other personal property in the employee's possession on the employer's or owner's premises. Any employee who fails to cooperate in an inspection will be subject to disciplinary action, up to and including immediate termination. The employee shall have the right to have his or her union representative to be present while any inspections are conducted.

#### **XV. APPEALS**

The procedures specified below will be the exclusive procedures available to an employee who is dissatisfied with a determination under this policy or is otherwise adversely affected under this policy. These procedures must be exhausted before a claimant may file suit under Section 502(a) of ERISA.

**Appeal to the Administrator:** An employee who is dissatisfied with a determination under this policy or is otherwise adversely affected under this policy may request a review of the determination by the Third-Party Administrator. A request for a review by the administrator must be submitted in writing and be received within 180 days following the date of the adverse decision. The Third-Party Administrator shall review the appeal and notify the employee of its decision within 30 days.

**Appeal to the Board of Trustees:** If the employee remains dissatisfied with the decision, the employee may appeal to the Board of the Trustees or a designated committee of the Board of Trustees. A designated committee will consist of at least one Employer and one Union Trustee. An appeal by the Board of the Trustees or a designated committee must be requested in writing within at least 60 days of the Third-Party Administrator's decision.

A properly submitted appeal will be presented to the Board of Trustees or its designated committee at its regular quarterly meeting. If an appeal is received less than 30 days before the next quarterly meeting, consideration of the appeal may be postponed (if necessary) until the second quarterly meeting following receipt of the appeal.

The Board of Trustees or designated committee will review the administrative file which will consist of all documents relevant to the appeal. It will also review all additional information

submitted on the employee's behalf. The review will be *de novo* and without deference to the initial denial.

If the denial is based on medical judgment, the Board of Trustees or designated committee will receive an opinion from a professional who has appropriate training and experience in the field of medicine involved in the medical judgment. The professional consulted will not be the individual who made the initial benefit determination nor the subordinate of that individual.

A copy of the administrative file will be mailed to the claimant prior to the appeal hearing. Generally, the appeal will be determined based on the administrative file and the comments of any witnesses consulted. The employee and/or his or her representative may be allowed to appear before the Board of Trustees or designated committee and present any evidence or witnesses if necessary and relevant to resolving the appeal. If the employee does appear at the hearing (or if the Board of the Trustees or a designated committee otherwise determines that such a record is appropriate) a stenographic record will be made of any testimony provided. The Board of the Trustees or a designated committee may in its discretion set conditions upon the conduct of the hearing, the testimony or attendance of any individual or address other procedural matters which may occur during a specific hearing.

Issuance of a Decision: The Board of the Trustees or a designated committee provide the claimant written notification of its decision within five days. If a decision cannot be reached at the initial meeting at which an appeal is heard, the Board of the Trustees or a designated committee may defer a decision on an appeal until the next quarterly scheduled appeals meeting provided that written notice is provided to the claimant.

Information to be provided upon request: The employee, and/or his or her authorized representative, may upon request and free of charge have reasonable access to all documents relevant to the appeal. Relevant documents will include information relied upon, submitted, considered or generated in making the determination. It will also include internal guidelines, procedures or protocols concerning the denied treatment option without regard to whether such documents or advice was relied on in making the benefit determination.

Judicial Review: If the employee remains dissatisfied with the determination after exhausting the claim appeal procedure, he or she has a right to pursue a civil action under 29 U.S.C. 1132(a). Any such action must be brought within the 180 days after the later of the final adverse benefit determination by the Board of the Trustees or a designated committee. If a suit is brought, the question for review shall be whether the Board of the Trustees or a designated committee: (1) was in error on a matter of law; (2) acted arbitrarily or capriciously in the exercise of its discretion; or, (3) issued findings and conclusions not supported by substantial evidence.

## **XVI. COST OF COLLECTION AND TESTING**

1. The costs of this program are paid for by an allocation designated by the Trust and included in the hourly contribution by all signatory Employers to the Trust. (\$.06 per hour as of April 2013).

NBU costs will be determined by the Trust from time to time. ( \$5.35 per person per month as of April 2013)

2. Employers who contribute to the Trust may elect to participate in this program. Participating Employers shall sign a compliance agreement that includes all L32 Employees. The NBU Employees shall participate in a substance abuse testing program. The Employer has the option of covering NBU Employees under this program or choosing a different program.
3. Employees are on duty and “on the clock” while providing specimens for an Employer.
4. The TPA for this policy (currently Drug Free Business) receives an hourly amount as determined by the Trust from the TPA for the Trust (currently Zenith American) for applicable hours reported by participating Employers.
5. As reserves allow and as determined by the Trust, Employers may be reimbursed a fixed fee for Employee on duty testing. The reimbursement may also be provided to candidates on the out of work list who choose to maintain status.

End of Policy and Program

Revisions:

4 June 2013: Deleted Article III, section 3 requiring employees to sign a consent form.

20 June 2017: IX 3. E. Revised Post accident testing.

19 December 2017: X. Specimens. Revised text regarding synthetic opioids.