

## DRUG & ALCOHOL POLICY

### ARTICLE 1: PURPOSE

1. To further the joint responsibility of the Association and the Union to improve workplace safety and prevent accidents and injuries.
2. To encourage and recognize the responsibilities of Employees to work unimpaired by Substances and to follow safe work practices.
3. To identify and correct situations where Substance use or impairment affects employment obligations or safety.

### ARTICLE 2: SCOPE

This Policy applies to Union members and casuals working under BCMEA-ILWU Canada Collective Agreement.

### ARTICLE 3: EMPLOYEE RESPONSIBILITIES

#### (A) Impairment

1. All Employees are required to perform their work in a manner that does not pose a safety risk to themselves or other workers, including due to the effects or after effects of Substance use either on or off duty.
2. Any Employee whose cognitive or motor skills may be impaired for any reason, including from the use of Alcohol, Illicit Drugs, Medications, or other Mood Altering Substances, or the after effects of the same (e.g., a hangover), must immediately notify their Supervisor of their condition.
3. All Employees shall cooperate with an investigation into any alleged violation of this Policy, as required by the Company, with a Union representative.
4. Any Employee whose cognitive or motor skills may be impaired for any reason, including from the use of Alcohol, Illicit Drugs, Medications, or other Mood Altering Substances, or the after effects of the same (e.g., a hangover), must not report to work or make themselves available for work including emergency or on-call work.

#### (B) Substance Use

1. On Company Premises and/or during working hours, Employees are prohibited from:
  - a. using, possessing, selling, or distributing Alcohol, Illicit Drugs, Medications or other Mood Altering Substances, except as provided for under this Policy;
  - b. possessing Drug Paraphernalia; and



- c. reporting for duty or being on duty while under the influence of any Substance(s) which may impair the Employee's cognitive or motor skills including Alcohol, Illicit Drugs, Mood Altering Substances and Medications or the after effects of the same (e.g., a hangover).

**(C) Medication Use**

1. Employees are expected to responsibly use prescribed and over the counter Medications and are required to confirm through their doctor or pharmacist that the Medication prescribed or otherwise being used will not negatively affect their cognitive and/or motor skills if performing Safety Sensitive Work. If the Medication may negatively affect an Employee's cognitive and/or motor skills they are expected to take appropriate steps including notifying their Supervisor of any need for a modified work assignment.
2. The following are prohibited on Company Premises and/or during working hours:
  - a. the possession of prescribed Medications without a legally obtained and current prescription; and
  - b. the intentional misuse of Medications including altering the means of use (crushing, liquefying, injecting and/or snorting) or otherwise using the Medication in a manner not intended by the prescribing physician or as specified by the pharmacist.

**ARTICLE 4: MANDATORY DISCLOSURE**

1. An Employee who performs Safety Sensitive Work must advise a Labour Relations Manager of the Association of any Substance use or impairment issue which affects the Employee's ability to meet their work responsibilities or may pose a safety risk.
2. Upon an Employee making such a disclosure, the Association will advise the Union and may hold the Employee out of service for the purpose of referring the Employee to the EAP Co-ordinator and for an assessment pursuant to ARTICLE 8(A). The obligation to make a disclosure under this Article is in addition to, and not a substitute for, an Employee's other obligations under the Policy.
3. If an Employee advises the Union of a Substance use or impairment issue which affects the Employee's ability to meet their work responsibilities or may pose a safety risk, the Union will refer the Employee to the EAP Co-ordinator who will conduct an assessment and advise the Association and the Union if the Employee is unfit to perform Safety Sensitive Work.



## ARTICLE 5 SUBSTANCE TESTING

A Company or the Association may require an Employee to undergo Substance Testing in the following circumstances:

### (A) Reasonable Cause Testing

1. An Employee may be required to undergo Reasonable Cause Substance Testing where the Employee admits to being impaired at work or there are reasonable grounds to believe that the Employee's appearance, behaviour, speech, motor skills, or body odour is consistent with the use of Drugs or Alcohol or their after effects; in such a case, testing for both Drugs and Alcohol will be carried out.
2. An Employee demonstrating signs of impairment must be removed from duty and may not be allowed to return to duty until the cause of the Employee's behaviour, or the cause of the apparent impairment, is determined. Where the employee produces a Negative Test Result, the Company may require the Employee attend the Employee's Physician for an assessment and to provide a letter stating whether the Employee is fit to return to work to the Association and the Union.
3. Prior to requiring an Employee to undergo Reasonable Cause Substance Testing, the Company will meet with the Employee and a Union Representative promptly to explain the basis for the Reasonable Cause Substance Testing and to consider the Employee's explanation for their condition.
4. Employees required to undergo Reasonable Cause Substance Testing may not operate their own or a Company vehicle. The Company will therefore make provisions to transport the Employee to the collection site and to the Employee's home or hotel.
5. Due to the risk that impaired driving poses to the safety of the Employee and to the public, the Company will contact the police if the Employee refuses to accept a ride under these circumstances and attempts to operate their own or another person's vehicle.

### (B) Post-Incident Testing

1. The Company may require an Employee to undergo Post-Incident Substance Testing in the circumstances described in this section. The purpose of Post-Incident Substance Testing is to rule out Substance use as a potential cause of the Significant Event.
2. The circumstances of each case must be taken into consideration before requiring Post-Incident Substance Testing. Post-incident Substance Testing will not occur unless a Significant Event has occurred and a preliminary investigation has been undertaken and determined that the condition of the Employee is a reasonable line of inquiry.
3. This determination requires:
  - a. a connection between the Employee and the Significant Event;
  - b. a determination that the Employee's act(s) or omission(s) may have caused or contributed to the Significant Event;



- c. consideration of whether other factors (e.g., environmental conditions, mechanical failure) caused the Significant Event; and
  - d. consideration of whether testing would assist the investigation.
4. A "Significant Event" includes an accident, incident or near miss where the Employee is involved in the occurrence of an event that results in:
  - a. a fatality;
  - b. a significant injury to an Employee or any other person;
  - c. significant damage to property, equipment or vehicles;
  - d. a reportable environmental event, including a reportable hazard or spill; or
  - e. a near miss which, had the event not been avoided, would likely have resulted in one of the conditions set out above.
5. An Employee who is involved in a Significant Event must report that event to their Supervisor as soon as possible, and must remain available for an investigation and Post-Incident Substance Testing.
6. Prior to requiring an Employee to undergo Post-Incident Substance Testing, the Company will meet with the Employee and a Union Representative promptly to explain the basis for the Post-Incident Substance Testing and to consider any information provided by the Employee.
7. An Employee involved in a Significant Event must not consume Drugs, Alcohol or Medication, unless prescribed by a medical practitioner or administered by a first responder, until after Post-Incident Substance Testing has been completed or the Employee has been advised that Post-Incident Substance Testing is not required.
8. The Company will notify the Work Place Health and Safety Committee that it is conducting an investigation under this section of the policy.

**(C) Return-To-Duty Testing**

1. The Association may require an Employee who, due to a breach of this Policy, has been discharged from the job, removed from the Company's Premises, suspended, dismissed, deregistered, or who has been held out of service, to undergo Return-to-Duty Substance Testing and have a confirmed Negative Test Result prior to returning to Safety Sensitive Work.

**(D) Follow-Up Testing**

1. The Association may require an Employee to undergo unannounced Follow-Up Substance Testing as set out in a treatment plan by the Employee's Physician or an IME Physician.



**(E) Employee Rights**

1. All time spent by an Employee in a Reasonable Cause Investigation or Reasonable Cause Substance Testing or Post-Incident Investigation or Post-Incident Substance Testing will be paid by the Company.

**ARTICLE 6: PRE-EMPLOYMENT TESTING**

1. The Association may require persons applying to be hired as a casual Employee under the Collective Agreement to undergo Substance Testing. The Association will advise applicants that Pre-Employment Substance Testing is required. The Association will apply this Article in a manner consistent with its human rights obligations.

**ARTICLE 7: SUBSTANCE TESTING RESULTS****(A) The Third Party Administrator (TPA)**

The TPA is contracted to provide:

1. Substance Testing under this Policy, including but not limited to performing Screening Tests, securing collection sites, providing testing personnel, and following testing protocols;
2. engaging the services of an accredited forensic laboratory to perform Confirmation Tests;
3. selecting and providing the services of an MRO; and
4. reporting the results of Substance Testing to the EAP Co-ordinator.

**(B) Sample Collections**

1. Substance Testing shall be administered by appropriately trained persons selected or employed by the TPA to ensure both proper chain of custody protocols and privacy protocols are respected. All specimens will be collected with concern for each Employee's personal privacy, dignity and confidentiality. The TPA will administer the collection of Substance Test specimens at an appropriate location.
2. An Employee who is directed to report for Substance Testing will be required to travel to the testing location accompanied by person(s) designated by the Company. The Company will arrange for transportation of the Employee.
3. Substance Testing for Alcohol will be administered by way of an approved Alcohol Screening Device or breath testing using an Evidential Breath Testing Unit (EBT). Substance Testing for Drugs will be administered by analysis of urine and/or saliva. The appropriately trained person from the TPA administering Substance Testing will explain the sample collection procedure to the Employee providing the sample.

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4. An Employee directed to report for Substance Testing must follow the directions of the TPA person administering the Substance Testing and may not dilute, tamper with, or alter a specimen.

(C) **Specimen Analysis**

1. Sample collection, testing and reporting of results will be conducted in accordance with standards accepted in Canada in order to ensure the accuracy and integrity of results. Testing shall screen, at a minimum, for the following Substances and below the following levels will result in a Negative Test Result:

Drug of classes of Drugs	Screening Test concentration equal to or in excess of ng/mL	Confirmation Test concentration equal to or in excess of ng/mL
Marijuana (urine screen)	50	15
Marijuana (oral fluid)		10
Cocaine	150	100
Opiates	2000	2000
Phencyclidine	25	25
Amphetamines	500	250
MDMA	500	250
Heroin	10	10
Oxycodone	300	300
Breath Alcohol Content	0.04%**	0.04%**

\*\*Alcohol Substance Test results below 0.04% may be considered a Positive Test Result if it is determined that the Employee would have produced a Positive Test Result while engaged in any work for the Company based on scientifically established dissipation rates for Alcohol.

2. The Association and the Union shall agree on changes to this Policy including with respect to the Drugs tested, the cut-off levels, and the analysis procedures as new legal standards, methods, or technology in Substance Testing warrant. The Parties' mutual desire is to utilize the best scientific methods reasonably commercially available and to keep current with developments in this area.

3. The MRO will interpret and evaluate the Substance Test result. The responsibilities of the MRO will be to:
  - a. ensure that proper protocols have been maintained with respect to the chain of custody of test specimens; and
  - b. notify and discuss with the Employee the result of their Substance Test; and
  - c. notify the EAP Co-ordinator of the Substance Test result.


**(D) EAP Co-ordinator Responsibilities**

1. When a Company or the Association notifies the EAP Co-ordinator that an Employee will undergo Substance Testing, the EAP Co-ordinator will promptly arrange for Substance Testing to be conducted by the TPA. Where the EAP Co-ordinator has not confirmed that Substance Testing has been arranged with the TPA within 15 minutes of a Company's or the Association's request, the Company or the Association may contact the TPA directly to request that Substance Testing be carried out. In such a circumstance, the Company or the Association will also promptly notify the EAP Co-ordinator that Substance Testing has been requested.
2. The EAP Co-ordinator will ensure that the TPA reports to the collection site within two hours of the Company or Association notifying the EAP Co-ordinator of the request for Substance Testing.
3. The EAP Co-ordinator, a Company Representative, and a Union Representative may attend at the collection site to provide assistance to the Employee and to observe the Substance Testing process.
4. The EAP Co-ordinator will promptly report Substance Test results to the Association's Designated Representative(s) and to the Union.

**ARTICLE 8: ASSESSMENT AND RETURN TO WORK**

**(A) Assessments**

1. If a Company or the Association reasonably believes that an Employee's ability to work is being affected by Substance Use, the Association may require the Employee to be assessed by the Employee's Physician and/or the EAP Co-ordinator, or by an IME Physician as set out below.
2. Assessments by Employee's Physician
  - a. If a Company or the Association reasonably believes that an Employee's ability to work is being affected by Substance use but does not suspect that the Employee suffers from a Substance Use Disorder, the Association may request that the Employee be assessed by the Employee's Physician and that he/she report to the EAP.
  - b. The Employee's Physician will establish any treatment plan required.



### 3. Independent Medical Examinations

- a. When an Employee:
  - i. has multiple drug and alcohol offences;
  - ii. a particularly serious infraction involving drugs and alcohol has occurred; and/or
  - iii. the Association believes that the Employee may suffer from a Substance Use Disorder,

the Association may request an assessment by an IME Physician.
- b. An IME will be facilitated by the EAP Co-ordinator and conducted by an IME Physician who is selected from a list jointly maintained by the Association and the Union.
- c. Where an IME is conducted, the IME Physician will establish any required treatment plan.
- d. The EAP Co-ordinator will obtain and provide the IME Physician's report to the Association's Designated Representative(s) and to the Union.

#### **(B) Treatment**

1. Where a treatment plan for a Substance Use Disorder is recommended by an Employee's Physician or an IME Physician, the EAP Co-ordinator will work with the Employee to choose the specific treatment provider(s) (e.g., treatment facility, psychologist, counsellor), consistent with the requirements of the treatment plan.
2. The EAP Co-ordinator will arrange for and facilitate referrals to the selected treatment provider(s).
3. Employees are required to comply with their treatment plans.
4. Where the Employee's Physician, the EAP Co-ordinator, or an IME Physician determine an Employee is unfit for work, the Association will hold the Employee out of service until the Employee is fit to return to work, consistent with the requirements in Article 8(D) below.

#### **(C) Return to Work Requirements**

1. If an Employee has been held out of service based on a reasonable belief by a Company or the Association that the Employee's ability to work is being affected by Substance Use, the Association may require that:
  - a. the Employee be cleared to return to work by the Employee's Physician;
  - b. the EAP Co-ordinator obtain a report from the Employee's Physician that confirms that the Employee is fit to return to work, and that the EAP Co-ordinator



provide a copy of this report to the Association's Designated Representative(s); and

- c. the EAP Co-ordinator be satisfied, after conducting an assessment, that the Employee is fit to return to work, and that the EAP Co-ordinator notify the Association of this determination; and/or
  - d. the Employee undergo Return-to-Duty Substance Testing and have a confirmed Negative Test Result prior to returning to Safety Sensitive Work, however the parties do not intend to restrict work for Employees who may use Substances off duty in a manner which does not impact their ability to meet their work responsibilities or pose a safety risk.
2. If the Employee's Physician or an IME Physician recommends conditions on an Employee's return to work, the Association and the Union must agree to a return to work agreement ("Terms and Conditions Agreement") before the Employee may return to work.
  3. The Terms and Conditions Agreement will include limitations, restrictions, monitoring, and Return-to-Duty and Follow-Up Testing requirements as recommended by the Employee's Physician or IME Physician.
  4. The Employee must serve any disciplinary penalty imposed prior to returning to work, subject to the Union's right to grieve the same.

**(D) Reporting on Treatment Plan Compliance**

1. Where Follow-Up Testing is required by a Terms and Conditions Agreement, the EAP Co-ordinator will notify the Association's Designated Representative and the Union of non-compliance with treatment.
2. Terms and Conditions Agreements may allow for a third party testing service to notify the Association's Designated Representative and the Union of non-compliance with treatment.

**ARTICLE 9: POLICY ENFORCEMENT**

1. The Parties will apply this Policy consistent with the Collective Agreement, recognizing that:
  - a. the Association has the right to impose discipline for violations of this Policy; and
  - b. the Union has the right to grieve any decision affecting an Employee under this Policy, including whether an Employee was impaired.

**ARTICLE 10: DISPUTE RESOLUTION PROCESS**

1. The Parties will raise issues and disputes regarding the operation, implementation, and application of the Policy at the Joint Industry Labour Relations Committee.

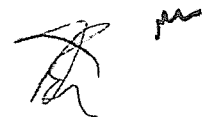


2. If disputes are not resolved at the Joint Industry Labour Relations Committee, the matter may be referred to Industry Arbitration by either party.

## ARTICLE 11: DEFINITIONS

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

1. Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol.
2. Association: The British Columbia Maritime Employers Association.
3. Company: A member employer of the Association.
4. Company Premises: Includes all real or personal property, facilities, land, buildings, parking lots, equipment containers, vehicles, vessels and boats whether owned, leased or used by the Company and wherever it may be located.
5. Confirmation Test: A test used to verify the positive results from a Screening Test. Confirmation Tests for Drugs use different methods than Screening Tests to identify the specific Drug or Drugs in the specimen, as well as the concentration of each Drug in the specimen.
6. Designated Representative(s): The representative(s) designated by the Association to receive test results and medical information from the EAP Co-ordinator and to preserve the confidentiality of an Employee's Substance Testing information and medical information.
7. Drug Paraphernalia: Any object or device which is used in association with the use of any Illicit Drug, marijuana or improper use of Medication. This is deemed to include any product or device, the purpose of which is to tamper with a testing sample or otherwise defeat a Drug or Alcohol test.
8. Drug(s): Any substance which has the potential to compromise the Employee's motor or cognitive skills including the categories defined below:
  - a. Illicit Drug means any Drug or substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law (e.g., street Drugs such as cocaine and heroin).
  - b. Medication refers to any Drug which is legally obtainable, either over-the-counter or through a doctor's prescription.
  - c. Mood Altering Substance refers to any product that is legally or illegally used, resulting in cognitive or physical limitations that negatively impact performance on the job (e.g., marijuana, synthetic marijuana, cathinone derivatives commonly known as "bath salts", doda, glues, aerosols, and other similar products).
9. EAP Co-ordinator: The individual or his/her designate appointed pursuant to Black Book #24.



10. Employee: Any ILWU member of casual employee working under the BCMEA- ILWU Collective Agreement.
11. Employee's Physician: A licensed medical practitioner chosen by the Employee or other licensed medical practitioner who has treated the Employee.
12. IME Physician: An independent, impartial, and licensed medical practitioner with expertise in addictions medicine.
13. Medical Review Officer (MRO): A licensed medical practitioner who has knowledge of laboratory procedures and Substance Use Disorders and has received the appropriate medical training to interpret and evaluate Substance Test results as it relates to a person's medical history and any other circumstances.
14. Negative Test Result: A report that the Employee who provided a specimen for Alcohol and Drug testing did not have an Alcohol and/or Drug concentration level equal to or in excess of that set out in ARTICLE 7(C).
15. Positive Test Result: A report that the Employee who provided a specimen for Substance Testing did have an Alcohol and/or Drug concentration level equal to or in excess of that set out in ARTICLE 7(C). An Employee's refusal to provide a specimen for Substance Testing will be deemed a Positive Test Result under this Policy.
16. Safety Sensitive Work: A job in which an Employee:
  - a. operates machinery, vehicles, or equipment;
  - b. performs tasks or duties; and/or
  - c. works in a location,where the Employee's error or omission poses a serious risk of injury or threat to health, safety, property, or the environment.
17. Screening Test: An initial test performed on a breath, urine, or saliva sample to determine the presence or absence of Alcohol and/or Drugs. Screening Tests usually focus on identifying particular classes of Drugs rather than specific Drugs. All positive Screening Tests must be verified by a Confirmation Test.
18. Substance: Includes Alcohol or Drugs.
19. Substance Testing: The analysis of the biological presence of a Substance by means of urine, breath, and/or saliva sampling and analysis.
20. Substance Use Disorder: A problematic pattern of using Alcohol or another Substance that results in impairment in daily life or noticeable distress as diagnosed by a licensed medical practitioner.
21. Supervisor: A person employed by the Company who is in a position of authority and directs the work of others. Supervisor may include, but is not limited to, foreman, manager, supervisor, safety office or manager, superintendent, and team leader.

22. Third Party Administrator (TPA): The TPA is an independent organization that is responsible for administering Substance Testing under this Policy (see ARTICLE 7(A)).
23. Union Representative: An ILWU Local Officer or Business Agent.

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