



# WORKPLACE SUBSTANCE ABUSE TESTING AND TREATMENT POLICY



Based on the Policy established by the United Association and the Mechanical Contractors' Association of America, and the minimum requirements of the Union Construction Industry Partnership

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# **AND PIPEFITTERS' LOCAL 120**

## **STATEMENT ON WORKPLACE SUBSTANCE ABUSE TESTING AND TREATMENT POLICY**

The following Substance Abuse Testing and Treatment Policy (herein referred to as the "Policy") is being adopted by and Pipefitters' Local 120. The Policy has been based on the recommendation of The United Association (UA) and the Mechanical Contractors Association of America (MCAA), and includes the minimum requirements of the Cleveland area Union Construction Industry Partnership (UCIP) Construction Industry Substance Abuse Program (CISAP). MCAA and the United Association recognize that broad mandates of such policies are being issued increasingly from both public and private purchasers of construction, and so both Parties have collectively worked together to establish guidelines to be used by local labor unions and affiliated associations. The pipefitters new contract in Cleveland, Ohio include language saying policies adopted by Contractors will be based on the provisions of the UA / MCAA policy.

As a result, Local 120 and the Mechanical Contractors' Association of Cleveland (MCA of Cleveland) have formed a Policy and Program Administrative Committee. Through the Committee, Local 120 and MCA of Cleveland have agreed to this Policy. The purpose of the following Policy is to establish and maintain a drug-free, alcohol-free, safe, healthy work environment for all employees.

and Pipefitters Local 120 regards worker safety, health, and well being as integral to top quality work performance and successful project delivery. Therefore, in the mutual interests of and Pipefitters Local 120 and our customers, the Policy has been adopted.

This Policy includes provisions for:

- prohibitions against the possession and use of illegal substances at work;
- a prohibition against impairment at work;
- annual testing, computer-generated selection (a random element) testing, and testing on the basis of for-cause, post-incident, and return-to work from treatment;
- the allowance of more stringent testing mandates if required by an owner;
- testing methods using non-invasive procedures;
- thresholds for positive results shall be at least as stringent as those required by the U.S. Department of Health and Human Services;
- treatment coverage, including the utilization of a Substance Abuse Professional (SAP), in full accord with the latest government standards for publicly mandated policies as well as Federal and State individual privacy and disability laws;
- disciplinary action;
- documentation of the implementation of the program;
- privacy of employees and the use of a Designated Employee Representative (DER) to assist in confidentiality.

# **AND PIPEFITTERS' LOCAL 120 WORKPLACE SUBSTANCE ABUSE TESTING AND TREATMENT POLICY**

and Pipefitters' Local 120 (herein referred to as the "Parties"), recognize that drug and alcohol abuse creates serious problems for workers, their families, the workplace, and the community. The Parties further recognize that they need a cooperative and constructive effort to overcome the impact of drug and alcohol abuse on safety, productivity, quality of work, and morale. Also, the Parties recognize the keys to this effort will be providing education and assistance to employees and their families, encouraging employees to receive treatment as needed, and fostering and encouraging an environment that assures all employees are fit for duty while on the job.

and Pipefitters' Local 120 have adopted this Policy using the form in Appendix A. Therefore in fulfillment of these objectives, the Parties have agreed to the following Policy:

## **1. USE AND POSSESSION PROHIBITED**

The use, possession, distribution, manufacture or dispensing of unlawful drugs or alcohol while on duty or during working hours; reporting for work or working while under the influence of, or impaired by alcohol, controlled substances or any other drug are all strictly prohibited and are all violations of this Policy. Positive drug and alcohol test results at the thresholds set out in this Policy or other violations of this Policy provide grounds for discipline, up to and including discharge, as provided in this Policy.

### **A) Prescription Medications and Over-The-Counter Drugs**

The Parties recognizes that it may be required for employees to take prescribed and over-the-counter medications. We request that all employees contact their DER if they feel that any of these medications will impair their ability to perform their job functions in a safe manner. This is intended to ensure that employees are not assigned work that could cause a safety hazard for themselves or other individuals.

## **2. THIRD PARTY ADMINISTRATOR**

The Parties will appoint a Third Party Administrator (TPA) to administer this Policy. The TPA will be selected by the UCIP CISAP Committee and approved by the Policy and Program Administrative Committee (see Section 16). It is the intent of the Parties to utilize the UCIP TPA. The responsibilities of the TPA shall be to:

- A) Select and utilize services of independent Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratories, which shall be jointly approved by the Committee and the TPA.
- B) Verify that the approved laboratories are providing specimen test kits and collection locations that follow strict chain of custody collection techniques.
- C) Maintain appropriate systems, records, and administrative procedures to provide the Parties with accurate and timely information as to the drug and alcohol-free status of employees.
- D) Ensure that the testing facility conducts both an initial drug screen and a confirmation test on specimens before reporting positive results.

- E) Process a donor's request for a confirmatory retest of the original sample.
- F) Notify Parties' contact person of all test results, both positive and negative.
- G) Refer individuals testing positive to the appropriate medical evaluation and participate in return to duty decisions as set forth in this Policy.

### **3. MEDICAL REVIEW OFFICER**

The Parties will appoint a Medical Review Officer (MRO) to perform specific medical-related functions. The MRO will be selected by the TPA and approved by the UCIP CISAP Committee and by the Policy and Program Administrative Committee (see Section 16). It is the intent of the Parties to utilize the UCIP MRO. The Responsibilities of the MRO shall be to:

- A) Review and verify a confirmed positive test result.
- B) Notify the tested individual of an apparent positive result and provide the individual with an opportunity to explain the reasons why their test might be positive.
- C) Review a participating employee's medical record.

### **4. TESTING**

The Parties agree that the following individuals shall be tested in accordance with this Policy:

- All employees of , including but not limited to company executives, management, supervision, engineering, craft workers, clerical personnel, other office staff, and all other non-collective bargaining personnel;
- All Local 120 members, union officers and office staff, all Local 120 training department employees (including office staff);
- Any personnel considered to be "Supervisors" for the purposes of "For-Cause" and "Post-Incident" testing as described in 4(C) of this Policy.
- Any other non-collective bargaining personnel under the employ of and Local 120.

All testing will be according to this Policy or otherwise in compliance with Customer requirements or other applicable laws, if appropriate. Testing procedures are intended to protect individual privacy, ensure accountability and integrity of the specimens, and to provide confidentiality of test results. All tests are for the sole purpose of drug and alcohol evaluation and cannot be used for any other evaluation, screening, or identifying medical information about an employee. It is the intent of this policy to perform non-intrusive tests (e.g., urine samples, breath samples, etc.). Under certain circumstances, though, it may be necessary to collect a sample of blood for testing. Such circumstances would include, but not be limited to, situations involving an injury/accident [see Post-Incident discussion in Section 4(C)(4)] where an individual is rendered unconscious and unable to provide a urine specimen, and verification for blood alcohol content.

Testing shall be performed according to the procedures in Section 4(G). The adulteration or substitution of a sample shall be treated as a positive test. If a sample is found to be diluted, employees will have the option of having one additional test sample collected and analyzed at their own expense.

## A) Threshold Levels

All alcohol testing shall be conducted by an independent laboratory authorized to conduct alcohol testing. The applicable blood or breath alcohol threshold level for a positive test shall be a concentration of **0.04** percent or more, or as determined by another entity under Sections 3C and/or 3D of this Policy. A confirmed positive test is a violation of this Policy.

All drug testing shall be conducted by an independent SAMHSA laboratory. The applicable drug threshold level for a positive test shall be based on the urine split sample testing which meets or exceeds the following:

<u>Marijuana</u> -	50 ng/ml* initial screen 15 ng/ml confirmatory test
<u>Cocaine</u> -	150 ng/ml initial screen 100 ng/ml confirmatory test
<u>Opiates</u> -	300 ng/ml initial screen 300 confirmatory test
<u>6-Acetylmorphine</u>	10 ng/ml initial screen 10 ng/ml confirmatory test
<u>Phencyclidine</u> -	25 ng/ml initial screen 25 confirmatory test
<u>Amphetamines</u> -	500 ng/ml initial screen 250 ng/ml confirmatory test
<u>Ecstasy</u>	500 ng/ml initial screen 250 ng/ml confirmatory screen
<u>Barbiturates</u> -	300 ng/ml initial screen 200 confirmatory test
<u>Benzodiazepines</u> -	300 ng/ml initial screen 300 confirmatory test
<u>Methadone</u> -	300 ng/ml initial screen 300 confirmatory test
<u>Propoxyphene</u> -	300 ng/ml initial screen 300 confirmatory test
<u>Oxycodone</u>	100 ng/ml initial 100 confirmatory test

\* ng/ml = nanogram per milliliter

The samples will also be tested for adulterants to determine if tampering is suspected of the test sample. Levels for other prohibited substances, if required by a facility owner, shall be in accordance with accepted quantitative procedures as recommended by Federal Government Standards.

## **B) Payment for Program Elements and Employee Time**

For all Participants in this program, all costs for collection, analysis, reporting, maintenance of records, and notifications shall be borne by the Mechanical Contracting Industry Fund of Cleveland, Inc. (MCI), except as indicated below.

**For-Cause Testing:** All initial costs for "For-Cause" testing as detailed in Section 4(C)(3) of this Policy will be borne by MCI. Any employee having a negative test for for-cause testing will receive full back pay for the period of suspension including time spent in testing.

**Post-Incident Testing:** All initial costs for "Post-Incident" testing as detailed in Section 4(C)(4) of this Policy will be borne by MCI. Any employee having a negative post-incident test will receive full back pay for the period of suspension including time spent in testing.

**Post-Positive Testing:** All costs for "Post-Positive" testing as detailed in Section 4(C)(5) of this Policy will be borne by the employee.

**Employee Time (Wages) and Travel Expenses:** Securing the drug test shall be the Participants responsibility and performed on his or her own time.

**Counseling and Rehabilitation:** For collective bargaining employees, all costs for counseling and rehabilitation as discussed in Section 9 of this Policy shall be borne by the Local 120 Health and Welfare Plan. For non-collective bargaining employees, all costs for the same shall be in accordance with 's medical benefits plans for that employee.

## **C) Policy Requirements**

The following provisions will be implemented by the Parties:

### **1) Annual Testing**

Annual testing will be performed on a mandatory basis once between January 1 and December 31 of each year. Records of such tests shall be maintained by the Independent Testing Laboratory and/or the TPA. The first testing date for a Participant will become their anniversary date, and the annual period will start from that date. If a Participant is tested as part of Computer-Generated Selection Testing (CGST), as described in 4(C)(2) below, the most recent CGST testing date will become the Participants new anniversary date.

Participants will be given notice via U.S. Mail for this testing.

### **2) Computer-Generated Selection Testing (Random)**

As an additional deterrent to substance abuse, employees will be selected for CGST for the prohibited drugs identified in Section 4(A). Testing will be conducted through the use of a CGST number generator or other neutral selection process. Employees will be selected for testing by the approved TPA. All participating members (labor and management) will be subject to quarterly<sup>1</sup> CGST selection, with the intent of testing 25% of the Participants annually.

Participants selected as part of CGST will be given notice via U.S. Mail and will have 72 hours from the date of the notice to report to a testing facility for testing.

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<sup>1</sup> Quarterly testing will consist of random testing dates within the quarter as needed to meet the quarterly total.

### 3) For-Cause Testing

Employees will be tested for the presence of drugs or alcohol if there exists objective evidence that the employee is under the influence of drugs or alcohol. The conduct of the employee must be witnessed by at least two trained supervisors, or other management personnel, if feasible, or facility owner management personnel. If not feasible, only one trained supervisor or facility owner manager need witness the conduct. The witness or witnesses must have received training in the identification of actions, appearances, or conduct that are indicative of the use of drugs or alcohol. Training requirements are discussed in Section 10 of this Policy. A written report describing the employee's condition shall be completed, dated, and signed by the witness(es), with copies available to the employee and union. The form presented in Appendix B to this Policy shall be used.

All tests shall be performed in accordance with this Policy and in a nondiscriminatory manner. During the process of establishing for-cause testing, the employee has the right to request a union steward, a union member, or an on-site representative to be present. All efforts will be made to contact representation from the employee's union.

Refusal to submit to an employer request for "For-Cause" testing for the presence of alcohol or drugs shall be treated as a positive test. An employee undergoing for-cause testing shall be suspended pending the outcome of the results. A confirmed positive test is a violation of this Policy. A confirmed negative test will result in back-pay.

A means of transportation will be made available by . Under no circumstances will the affected employee be permitted to drive his/her own vehicle to the testing site.

### 4) Post-Incident Testing

Employees may be tested for the presence of drugs or alcohol if the employee sustains an injury; has caused another employee to sustain an injury; has caused a work-related accident; or was operating or helping to operate power tools, machinery, equipment, or vehicles involved in a work-related accident.

In evaluating whether a drug/alcohol test is warranted, an incident investigation must be conducted. This process would involve interviewing the affected employee(s); interviewing witnesses, if any, to the incident; and documenting the events leading up to and around the incident in question. A supervisor trained in accordance with Section 10 of this Policy must make the final determination as to whether or not testing is warranted.

Since this testing is time-sensitive, the collection of a sample for evaluation of the presence of drugs must be completed within 32 hours of the incident; the collection of a sample for evaluation of the presence of alcohol must be made within 8 hours.

Following the incident investigation, if it is determined that the employee will be requested to submit to a drug/alcohol test, a written report describing the reason behind the request shall be completed, dated, and signed by a trained supervisor, with copies available to the employee and union. The form presented in Appendix C to this Policy shall be used.

***If a union member is requested by the trained supervisor to proceed to a testing facility for a post-incident test, the employee has the right to request a union steward, a union member, or an on-site representative to be present. All efforts will be made to contact representation from the employee's union.***

All tests shall be performed in accordance with this Policy and in a nondiscriminatory manner. An employee subject to post-incident testing shall be suspended pending the outcome of the results.

Refusal to submit to an employer request for post-incident testing for the presence of alcohol or drugs shall be treated as a positive test. A confirmed positive test is a violation of this Policy. A confirmed negative test will result in back-pay.

A means of transportation will be made available by . Under no circumstances will the affected employee be permitted to drive his/her own vehicle to the testing site.

**a) Denial of Workers' Compensation Benefits**

Ohio House Bill 223, also known as the rebuttable presumption law, went into effect October 13, 2004. This law puts the burden of proof on employees to prove that alcohol or drugs in their system were not the proximate cause of a workplace injury. This legislation is intended to curb substance abuse in the workplace. The new law allows employers to ask for disallowance of a workers' compensation claim filed by an employee who tests positive on a qualifying chemical test. The law also applies if the injured employee refuses the test. For the claim to be allowed, the injured employee must produce sufficient evidence to prove that being intoxicated by alcohol or being under the influence of any of nine controlled substances (not prescribed by the employee's physician) did not cause the injury

Employers who wish to contest a workers' compensation claim must post notice that is no smaller than the certificate of coverage in the same location as the certificate. Rebuttable presumption cannot be applied to a claim unless the written notice was properly posted.

5) **Post-Positive Testing**

Testing will be required as part of a follow-up to counseling or rehabilitation for substance abuse. Employees returning to work after successfully completing a rehabilitation program will be subject to up to four drug/alcohol tests without prior notice or as may be recommended by the testing medical health professional during the first twelve (12) months after returning to work. A positive test will result in disciplinary action.

6) **Unemployed Workers and New Hire Testing**

Any employee affected by the collective bargaining agreement that is unemployed but requires substance abuse testing as a condition of work, or new hires that are not collective bargaining employees, will be considered a Participant in this program, and therefore payment for elements of the testing will be in accordance with Section 4(B) of this Policy.

7) **Pre-Employment Testing**

All non-collective bargaining applicants for employment by will be required to undergo a post-offer, pre-employment drug test in accordance with the procedures listed in Section 4(G) of this Policy, analyzed for the constituents identified in Section 4(A) of this Policy. Any final offer of employment is conditional upon the applicant testing negative on this pre-employment test. A non-collective bargaining applicant who successfully tests negative on his/her pre-employment test in accordance with Section

4(A) of this Policy and is hired by the will become a participant in this Program and their anniversary date shall be their pre-employment test date.

Any non-collective bargaining applicant that tests positive on their pre-employment test in accordance with Sections 4(A) and 4(G) of this Policy will not be hired by .

All potential collective-bargaining hires for are required to be participants in this Program.

#### **D) Customer Requirements**

The Parties understand that a Customer may want to implement additional Policy requirements. As a result, it is possible that additional testing may be required to meet customer-specific policies. It is the Parties intent that utilization of the UCIP CISAP will streamline this process and minimize duplicative testing. will inform both the union and the workers if additional customer requirements mandate additional testing over that indicated in this Policy. A copy of the owner policy will be submitted to the union as verification of the additional testing requirements.

#### **E) Bureau of Workers' Compensation Programs**

These programs do not require any additional testing or training other than that already implemented as part of this Policy

#### **F) Other Testing Guidelines**

Under some circumstances the employees covered by this Policy may be subject to regulations for drug and alcohol testing established by a Federal or State Agency. To the extent that this Policy is more strict or specific than other governing policies and procedures, then this Policy shall control, unless expressly preempted by law. There shall be no other drug or alcohol testing required as a condition of employment unless it is required by a public or private sector client/owner.

#### **G) Drug Testing Procedures**

- 1) All samples for testing will be taken by appropriately qualified personnel (e.g. medical personnel if blood sample is required). Samples taken will be separated into two samples. Both samples will be appropriately marked with the employee's identification.
- 2) To the greatest extent possible, the privacy of the employee will be preserved while the sample(s) to be tested are taken. However, some precautions will help to ensure that pure specimens are obtained.
- 3) Initial testing of a urine sample shall be by immunoassay quick test. All samples identified as positive shall be confirmed by gas chromatography/mass spectrometry (GC/MS) or, if appropriate, other generally accepted, scientifically accurate means of ascertaining the identity of a drug in the urine testing process.
- 4) Samples shall be properly stored at all times. All reported as positive will be stored frozen for at least 365 days. If the employer or employee requests, the positive sample shall be stored for a longer period at the expense of the requesting party.
- 5) All handling and transportation of each specimen will be properly documented through strict chain of custody procedures. Strict chain of custody includes

handling and transportation by trained individuals and signing off by both the transmitting individual and the receiving individual, from the initial sample collecting professional through the testing laboratory.

- 6) Refusal of an employee to submit to a test under the terms of this Policy will be treated as a positive test. The employee will be subject to the disciplinary action under Section 11 of this Policy.
- 7) All employees with a confirmed positive will be immediately laid-off or terminated from work with and subject to the disciplinary action under Section 11 of this Policy.

#### **H) Alcohol Testing Procedures**

- 1) All samples for testing will be taken by appropriately qualified personnel. Samples will either be breath or saliva, using an Evidential Breath Testing (EBT) Device or Department of Transportation (DOT)-approved saliva swab, respectively. Testing by EBT will only be performed by a Breath Alcohol Technician (BAT) certified by the manufacturer of the device used.
- 2) Blood will only be collected when an EBT device is not available or practical. If blood is collected, only appropriately qualified medical personnel will collect the samples. There is no split sampling for blood alcohol testing.
- 3) Before being tested, the individual will be required to present personal identification. Any individual who refuses to provide personal identification or provides false identification will be shown to have failed to cooperate in the testing.
- 4) **Evidential Breath Testing Procedure**
  - (a) The individual will be instructed by the BAT on how the test will be performed.
  - (b) To protect each worker, the BAT will attach to the testing device an individually-sealed mouthpiece in the worker's view.
  - (c) The worker will then be directed to blow forcefully into the breath testing device until an adequate amount of breath has been maintained.
  - (d) If the worker is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the worker will be required to submit a blood sample in accordance with (H)(2) above.
  - (e) If an adequate breath specimen is provided and the initial test registers an alcohol concentration less than 0.08 percent, the test will be reported as negative and no additional testing will be required at that time.
  - (f) If an adequate breath specimen is provided and the initial test is at or above 0.04percent, a second confirmatory test will be performed. If an adequate breath specimen is provided and the confirmatory test registers an alcohol concentration at or above 0.08 percent, it will be reported as positive. If an adequate breath specimen is provided and the confirmatory test registers an alcohol concentration less than 0.04 percent, the test will be reported as negative and no additional testing will be required at that time.

## **I) Re-Testing**

If following MRO verification and review, an employee is found to have tested positive, the employee will have three (3) working days following the date which the employee is notified of the test result to advise the MRO and their respective DER in writing, of the employee's desire to request a retest of a split of the original urine sample at the employee's own expense and at a SAMHSA certified laboratory selected by the employee. If the split sample result is confirmed following any required verification to be negative, the employee would be given back wages by if the employee was denied work, and be reimbursed for the cost of the test. An example letter for use by the affected employee is included as Appendix D of this Policy.

## **5. TEST RESULTS REPORTING AND DOCUMENTATION**

Test results reporting and documentation shall be as follows:

### **A) Verification**

In the case of urine testing, for those specimens that showed positive results on both the initial screening and the confirmatory test, the MRO shall perform verification. Such verification shall include contacting the individual with the apparent positive test result to ascertain whether there may be a legitimate explanation for a positive result. Information that will be considered are any over-the-counter or prescription medication that the employee is currently taking, or has recently taken, and any other information relevant to the reliability of, or explanation for, a positive test. The MRO will inform the individual of his/her right to have the second sample (other half of a split urine sample) tested at his/her expense at the same or another SAMSHA-approved testing facility.

The MRO shall then perform a review of all the submitted information and make an evaluation of the final status of the results. Eligible employees will be listed as such on the MRO website.

If the MRO is not able to contact the individual, the MRO shall report to the TPA and DER that the MRO made reasonable effort to contact the individual. The TPA and DER will then attempt to contact the individual and ask him/her to contact the MRO within 24 hours.

The MRO may verify a test as positive without communicating with the individual if the worker refuses to discuss the test results or more than five (5) days have passed after the MRO notified the TPA and DER of the inability to contact the worker.

### **B) Reporting**

The completed chain of custody form shall accompany any positive report. The MRO shall report the test results to the TPA providing the following information:

- 1) That the test being reported was conducted in accordance with the Program;
- 2) The name of the individual for whom the results are being reported;
- 3) The date and location of the test collection;
- 4) The type of test (e.g., annual, CGST, etc.);
- 5) Whether the drug or alcohol test(s) was positive or negative.

The same report shall be made available to the employees DER or others that the employee designates in writing. The same report, along with the complete analytical report, shall be made available to the affected individual.

A report indicating whether a collective-bargaining employee of is "Eligible" shall be made available to the DER of and Pipefitters' Local 120, and is also available at the MRO website.

All records of the testing and verification process will be forwarded to and maintained by the TPA.

### **C) Card Issuance**

An annual testing certification card shall be issued upon testing negative and shall be recognized by all signatory employers and will remain in effect for one calendar year. No employee who within the last 12 months has been subjected to a drug and alcohol test, the results of which were negative, shall be requested or required to undergo additional annual testing per Section 4(C)(1) of this Policy. The other testing requirements still apply.

The card shall be relinquished upon request at the testing facility. The Participant shall ensure that a receipt is obtained, and be in his/her possession, as proof that he/she are an active Participant in the program, until the new card is received.

## **6. RIGHTS OF EMPLOYEES**

- A) Employees affected by the implementation of this Policy will be given a copy of this Policy. An acknowledgement form is included in Appendix E to this Policy. This form does not commit the employee to agreeing to the Policy but merely acknowledges that he/she understands a Policy has been put in place and that he/she have had an opportunity to review the Policy. If an affected employee refuses to sign the Policy, a witness may acknowledge review of the Policy by said employee.
- B) Before a Participant undergoes drug or alcohol testing, a form shall be provided that explains the procedures and his/her agreement to submit to the procedures. An example form is included in Appendix F to this Policy. *An Employee's refusal to sign the form does not prevent implementation of this Policy as long as the employee agrees to participate in the program.*
- C) If the confirmatory testing indicates a positive test result, the employee must be given written notice of the right to explain the positive test and indicate any over-the-counter or prescription medication that the employee is currently taking, or has recently taken, and any other information relevant to the reliability of, or explanation for, a positive test.
- D) Within three (3) working days after notice of a positive initial test result, the employee may submit information to the DER or MRO, in addition to any information already submitted under paragraph (c), to explain that result.
- E) If following MRO verification and review, an employee is found to have tested positive, the employee will have three (3) working days following the date which the employee is notified of the test result to advise the MRO and respective DER, in writing, of the employee's desire to request a retest of a split of the original sample at the employee's own expense and at a SAMHSA certified laboratory selected by the employee.

- F) Unless a positive test result is confirmed as positive, it shall be deemed negative and reported by the laboratory as such.
- G) An employee has the right to refuse to take a test. Notwithstanding, refusal to test or provide an adequate sample when required by this Policy shall be treated as a positive test. The employee will be subject to the disciplinary action under Section 11 of this Policy.
- H) Any specimen adulterated by the employee will be considered a positive test result and therefore a violation of this Policy. Any specimen adulterated by any other individual will be considered a negative test result.
- I) Privacy and Accountability: Testing procedures are intended to protect individual privacy, ensure accountability and integrity of the specimens, and to provide confidentiality of test results.

## **7. LEAVING THE WORK SITE**

During an investigation involving the use or possession of drugs or alcohol, or once a determination of for-cause testing has been made, the affected employee shall not leave the work site without approval of , and shall leave in the manner determined by . Leaving the work site without approval shall be treated as a positive test.

## **8. CONFIDENTIALITY**

Test result reports and other information acquired in the drug or alcohol testing processes are private and confidential information and may not be disclosed by , the DER, or the laboratory conducting the test to any employer or to a third party, individual, governmental agency, or private organization, without the written consent of the employee tested.

## **9. TREATMENT / EMPLOYEE ASSISTANCE PROGRAM**

This Policy recognizes that drug and alcohol dependency is a treatable health problem. Therefore, the Parties encourage any employee with a substance abuse problem to come forward and voluntarily accept assistance in dealing with the illness. If you volunteer for help, every reasonable effort to return you to work upon recovery will be made. The DER will also take action to assure that your illness is handled in a confidential manner.

If employees need assistance in dealing with such a dependency, and/or would like to obtain information on the availability of assistance resources, treatment clinics, and programs, please contact the representatives listed below:

- For collective bargaining employees, contact their DER.
- For non-collective bargaining employees, please consult your health benefits manual.

The Parties encourage treatment for any drug or alcohol dependency, and this Policy should be implemented to encourage employees with health problems to seek treatment before their jobs are in jeopardy or the safety, health and security of the work environment or other workers is put at risk.

and Pipefitters' Local 120 will utilize the resources of a Substance Abuse Professional (SAP) to perform assessments and evaluation for possible referral for treatment. Such treatment, if recommended, may range from minor out-patient treatment and/or counseling to intense in-patient treatment.

## 10. EMPLOYER AND EMPLOYEE TRAINING

The training program for this policy will meet the requirements of the Ohio Bureau of Workers Compensation Drug Free Workplace (BWC-DFWP) initiative regardless of the size of the company. All Participants will be required to attend training annually.

Trainers to present the training to supervisors and workers shall be represented equally by both MCI (training arm for MCA of Cleveland) and Local 120. Outside training sources may be utilized if approved by the Policy and Program Administrative Committee.

Time spent in training and any related travel expenses shall be the Participant's responsibility.

Training shall be offered in frequency as agreed upon by the Policy and Program Administrative Committee.

### A) Supervisor Training

All Participants in a supervisory position (e.g., stewards, foremen, project superintendents) will be required to attend 1 hours of worker annual training as outlined in 10(B) as well as **2 hours** of initial and 1 hours of annual refresher training as outlined below.

#### 1) Training Program Goals

At the end of the training session, supervisors should be able to:

- a) Report the current drug and alcohol abuse trends as they pertain to the construction industry.
- b) Delineate policies and procedures applicable to CISAP covered employers and associated collective bargaining agreements.
- c) Identify the classes of drugs of abuse and provide information about the physical and/or behavioral signs of an individual under the influence.
- d) List the appropriate steps for a supervisor to follow if suspicious of a worker being under the influence of drugs or alcohol.
- e) Identify at least two resources (including the approved SAP) that employees can be referred to for assistance in resolving a substance abuse problem.

#### 2) Training Program Outline

- a) The Importance of Substance Abuse Training for Job Site Supervisors
- b) DFWP Supervisory Responsibilities
- c) Facts About Alcohol and Other Drugs
- d) Work Site Drug and Alcohol Testing
- e) Taking Action
- f) Referral to Assistance

### B) Employee Training

All employees affected by this Policy will be required to attend 1 hours of annual training.

#### 1) Training Program Goals

At the end of the training session, affected employees should be able to:

- a) Report circumstances under which a worker may be subject to drug/ alcohol testing under the CISAP policy.
  - b) Identify conduct prohibited under the CISAP policy.
  - c) Explain the difference between tolerance, psychological dependence, and physical dependence (addiction).
  - d) Identify the classes of drugs of abuse and provide a general description of the impact and health effects of each.
  - e) Identify at least two resources (including the approved SAP) available to workers to resolve a substance abuse problem.
- 2) Training Program Outline
- a) Review State of Ohio CISAP Drug Free Workplace Initiatives.
  - b) Disease Model for Alcohol and Drugs (Affects of Abuse).
  - c) Signs and Symptoms of Use/Misuse and Effects on the Job.
  - d) Provide Assistance Resources (Including counseling and rehabilitation resources provided through union and/or management.

## 11. DISCIPLINARY ACTIONS

Notwithstanding specific-owner or customer actions, the following shall apply:

### A) First Medical Result

***Participants who test positive, or refuse to take a required test, or don't have a validated excuse for CGST testing as described in 4(C) of this Policy, shall be subject to the following conditions:***

- 1) The employee shall be given a lay-off, will receive a written reprimand, and shall be immediately referred to the Substance Abuse Professional (SAP). The employee shall participate in drug and/or alcohol evaluation and subsequent counseling and/or rehabilitation program as directed by the SAP. Counseling and/or treatment is a required component of this Policy.
- 2) Following the prescribed counseling and/or treatment, the employee will be required to produce a negative drug test in accordance with 4(C)(5) of this Policy.
- 3) The employee will be subject to increased Computer-Generated Selection Testing (CGST: a random selection procedure), up to four times over a one year period, as a condition of further employment.
- 4) If the employee participates in and successfully completes the evaluation and any subsequent counseling and/or rehabilitation program as directed by the SAP, then there shall be no further action as a result of this first incident. In this case, the employee will be returned to work pending work availability. However, the employee is not entitled to any paid work time or benefits for time not worked because of the evaluation and counseling and treatment. If the employee refuses to participate in either the evaluation or the rehabilitation program or fails to successfully complete the counseling or rehabilitation program, the employee will forfeit their "Drug-Free" card. For those employers participating in the Ohio BWC Drug-Free Workplace program, refusal to participate will result in a lay-off.

***Participants who failed to show for a "CGST" test as described in 4(C)(2) of this Policy, and have provided a validated excuse to the Designated Employee Representative, shall be subject to the following conditions:***

- 5) For failure to show for the "CGST" testing, since the CGST testing is time-sensitive, and the opportunity to test for the current CGST pool would have passed, the employee will be immediately included in the subsequent CGST testing pool. In this case, the employee would still be considered eligible for work.

#### **B) Second Medical Result**

***Participants who having twice tested positive, or refuse to take a required test, or don't have a validated excuse for CGST testing as described in 4(C) of this Policy, shall be subject to the following conditions:***

- 1) The employee shall be given a lay-off for a minimum of 30 days, will receive a written reprimand, and shall be immediately referred to the Substance Abuse Professional (SAP). The employee shall participate in drug and/or alcohol evaluation and subsequent counseling and/or rehabilitation program as directed by the SAP. Counseling and/or treatment is a required component of this Policy.
- 2) Following the prescribed counseling and/or treatment, the employee will be required to produce a negative drug test in accordance with 4(C)(5) of this Policy.
- 3) The employee will be subject to increased Computer-Generated Selection Testing (CGST: a random selection procedure), up to four times over a one year period, as a condition of further employment.
- 4) If the employee participates in and successfully completes the evaluation and any subsequent counseling and/or rehabilitation program as directed by the SAP, then there shall be no further action as a result of this incident. In this case, the employee will be returned to work pending work availability. However, the employee is not entitled to any paid work time or benefits for time not worked because of the evaluation and counseling and treatment. If the employee refuses to participate in either the evaluation or the rehabilitation program or fails to successfully complete the counseling or rehabilitation program, the employee will forfeit his/her "Drug-Free" card. For those employers participating in the Ohio BWC Drug-Free Workplace program, refusal to participate will result in a lay-off.

***Participants who failed to show for a second "CGST" test as described in 4(C)(2) of this Policy, and have provided a validated excuse to the Designated Employee Representative, shall be subject to the following conditions:***

- 5) The employee will be placed on notice that a third incident of "failure to show" for the CGST test will result in direct action as described in 11(C);
- 6) The employee will be immediately included in the subsequent CGST testing pool.

#### **C) Third Medical Result and Subsequent Results**

***Participants who having three or more times tested positive, or refuse to take a required test, or don't have a validated excuse for CGST testing as described in 4(C) of this Policy, shall be subject to the following conditions:***

- 1) The employee will be terminated from employment

- 2) The employee shall receive a written reprimand and shall be immediately referred to the Substance Abuse Professional (SAP). The employee shall participate in drug and/or alcohol evaluation and subsequent counseling and/or rehabilitation program as directed by the SAP. Counseling and/or treatment is a required component of this Policy.
- 3) Following completion of any counseling and/or rehabilitation program as directed by the SAP and production of the negative drug test, the employee will be returned to work by pending work availability.
- 4) The employee will be subject to increased Computer-Generated Selection Testing (CGST: a random selection procedure), up to four times over a one year period, as a condition of further employment.
- 5) If the employee participates in and successfully completes the evaluation and any subsequent counseling and/or rehabilitation program as directed by the SAP, then there shall be no further action as a result of this incident. In this case, the employee will be returned to work pending work availability. However, the employee is not entitled to any paid work time or benefits for time not worked because of the evaluation and counseling and treatment. If the employee refuses to participate in either the evaluation or the rehabilitation program or fails to successfully complete the counseling or rehabilitation program, the employee will forfeit their "Drug-Free" card. For those employers participating in the Ohio BWC Drug-Free Workplace program, refusal to participate will result in a termination.

***Participants who failed to show for a third and future "CGST" tests as described in 4(C)(2) of this Policy, regardless of a validated excuse, will be considered to have "failed to take a required test", will be in violation of this Policy, and shall be subject to the disciplinary actions starting with the "First Medical Result" detailed in 11A.***

#### **D) Clean Slate Provision**

The discipline procedure will revert back to "First Medical Result" detailed in 11(A) following three (3) consecutive years of negative tests providing the worker continually participated in the Program.

## **12. POLICY VIOLATIONS**

Unless otherwise set forth herein, all violations of this Policy shall be cause for discipline, up to and including dismissal from the drug-free workforce program.

## **13. CONDITION OF EMPLOYMENT**

Compliance with this Policy is a condition of employment for all participating employers. With regard to this Policy, any failure or refusal of an employee to cooperate fully and submit to any test under this Policy, will be a violation of this Policy, subject to the conditions as outlined in this Policy.

## **14. NO LITIGATION**

agrees not to engage in any litigation against the signatory local union or its parent organization, the United Association, in connection with any aspect of this Policy. Furthermore, agrees the union is not responsible through its participation in this Policy for ascertaining or monitoring the drug-free or alcohol-free status of any employee or applicant for employment or for otherwise ensuring safety on the job site. Similarly, the local unions signatory to this Policy

agree not to institute or otherwise engage in any litigation against employers signatory to this is Policy or the Mechanical Contractors' Association of America, Mechanical Contractors' Association of Cleveland, and related entities, relating to the lawful implementation of this Policy.

## **15. GRIEVANCE PROCEDURE**

All disputes involving the interpretation of this Policy and any discipline imposed for violations of this Policy shall be subject to the grievance procedure contained in the employee's Collective Bargaining Agreement.

## **16. POLICY AND PROGRAM ADMINISTRATIVE COMMITTEE**

The Parties have created a Policy and Program Administrative Committee. The Committee consists of an equal number of union and management appointees and a neutral third party. The neutral party was agreed to by mutual consent of the labor and management members. The Committee shall determine operating procedures for the program and interpret this Policy. The Committee shall operate on the basis of consensus. No votes shall be taken.

## **17. FEDERAL PRE-EMPTION**

This policy does not apply to employees where the specific work performed requires those employees to be subject to Federal drug and alcohol testing in accordance with other applicable programs.

## **18. DURATION OF AGREEMENT/POLICY**

This agreement/policy shall expire on April 30, 2015, unless extended by mutual written consent of the Parties. Any party signatory to this Policy wishing to re-negotiate or modify this policy shall notify the Committee in writing.

## **19. DEFINITIONS**

Accident - Any event resulting in injury to a person or property to which an employee, or contractor/contractor's employees, contributed as a direct or indirect cause.

Adulterated Specimen - A urine screening sample which as been tampered with to cover the true results.

BWC - Ohio Bureau of Workers' Compensation.

Collection Facility/Site - Approved location where Participants can provide a specimen for testing.

Company Premises - The term "Company Premises" as used in this policy includes all property, facilities, land, building, structures, automobiles, trucks and other vehicles owned, leased or used by the company. Construction job sites for which the company has responsibility are included.

CGST - Computer Generated Selection Testing. This computer selection is the random element of this Program.

CISAP - Construction Industry Substance Abuse Program.

Customer - An owner, or possibly an entity which has hired to perform work.

Designated Employee Representative - In the case of collective-bargaining employees, an appointed union officer. In the case of non-collective bargaining employees, the designated management individual of the Employer.

Diluted Samples - The Policy will follow guidelines for diluted samples set by the Federal Government.

DOT - United States Department of Transportation.

Eligible - Database system status referring to an employee who is validated as a Participant in the Construction Industry Substance Abuse Program.

Employee - Individuals, who perform work for , including, but not limited to, company executives, management, supervision, engineering, craft workers clerical personnel, other office staff, and all other non-collective bargaining personnel under the employ of .

GC/MS - Gas Chromatography/Mass Spectrometry.

Incident - An event which has all the attributes of an accident, except that no harm was caused to person or property.

Ineligible - Database system status referring to an employee who is not validated as a Participant in the Construction Industry Substance Abuse Program (an ineligible employee should contact the Third-Party Administrator or his or her designated representative).

MRO - Medical Review Officer.

Negative Drug Test - A test acceptable for employment and which does not meet or exceed threshold limits as specified in Section 4(A), or other limits as set per Section 4(D) and/or 4(F), of this Policy.

Owner - The owner of a facility or project where employees are performing work.

Participant - An individual being tested as part of this Policy. This individual could be considered an Employee.

Positive Drug Test - A test which meets or exceeds the threshold limits as specified in Section 4(A), or other limits as set per Section 4(D) and/or 4(F), of this Policy..

Prohibited Substances - Prohibited substances include illegal drugs (including controlled substances, look alike drugs and designer drugs) and alcoholic beverages in the possession of or being used by an employee on the job.

Reasonable Cause - Reasonable cause shall be defined as excessive absenteeism or tardiness, slurred speech, alcohol smell, and erratic behavior such as noticeable imbalance, incoherence and disorientation.

Retest - testing required to reenter the program after positive test and proper procedural steps have been taken. Test is taken at the expense of the employee.

Re-analyze - A challenge of a positive test can be requested. Split sample of the original test can be examined by a certified laboratory of the employee's choice. If the re-analysis confirms the positive test, the employee must pay for the analysis. If the re-analysis reverses the result, the program will absorb the cost.

SAMSHA - Substance Abuse and Mental Health Services Administration.

Split Sample - Sample taken at the collection site will be separated into two samples. Both samples will be appropriately marked with the employee's identification.

Substance Abuse Professional - Authorized individual who performs assessments and possible referral to treatment for those individuals determined by the MRO to have tested positive.

Substituted Sample - A specimen submitted for testing that is found not to have been provided by the employee for which testing is being performed.

Supervisor - An employee that has determined is in a supervisory position. These positions could include, but are not limited to, job stewards, foremen, and project superintendents.

TPA - Third Party Assistant

Under the Influence of a Prohibited Substance - Under the influence of a prohibited substance, as used by this Policy, means a confirmed Positive test result as defined in Section 4(A), or other limits as set per Section 4(D) and/or 4(F), of this Policy .

**APPENDIX A**  
**WORKPLACE SUBSTANCE ABUSE TESTING AND**  
**TREATMENT POLICY**  
**PARTY ACKNOWLEDGEMENT AND ADOPTION FORM**

I, \_\_\_\_\_ (individual name), authorized representative of  
\_\_\_\_\_  
\_\_\_\_\_ (Party name), acknowledges receipt of, and have read  
the Workplace Substance Abuse Testing and Treatment Policy and Agreement  
dated \_\_\_\_\_.

I understand that a joint labor and management committee consisting of members of the  
Mechanical Contractors' Association of Cleveland and Local Union 120 was formed to come to  
agreement on this uniform Policy for our industry.

\_\_\_\_\_ (Party name) hereby agrees to adopt and enforce this  
Policy.

\_\_\_\_\_  
Authorized Representatives Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Representatives Signature

## APPENDIX B

### FOR-CAUSE (REASONABLE SUSPICION) CHECKLIST AND REPORTING FORM

Date of Report: \_\_\_\_\_ Date/Time Period Covered by Observation: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Corroborating Witness (if applicable): \_\_\_\_\_

#### Physical Symptoms

(Provide explanation where appropriate.)

- flushed or pale face
- dilated or constricted pupils (note which)
- constricted pupils
- glassy eyes
- bloodshot or red eyes
- sniffles/runny nose
- swaying, wobbling, staggering or falling
- dizziness
- excessive sweating in cool areas
- smell of liquor
- strange chemical odor on breath
- burnt rope smell on clothes, hair or body
- drowsiness
- incoherent, confused or slurred speech
- apparent insensitivity to pain
- reduced reaction time
- poor coordination
- increased or depressed breathing rate
- tremors
- other (explain) \_\_\_\_\_

**Behavioral**(*Provide explanation where appropriate.*)

- antagonistic
  - restless
  - overreacts to minor things
  - unusually talkative/rapid speech
  - excessive laughter or hilarity
  - baseless panic
  - withdrawn
  - rapid mood swings
  - irritable
  - combative
  - depressed
  - paranoid
  - other (explain) \_\_\_\_\_
- 

**Work Symptoms**(*Provide explanation where appropriate.*)

- doesn't follow task instructions
  - shows disregard for safety of self and others
  - exhibits excessive carelessness
  - appears unable to concentrate fully
  - excessive mistakes
  - unexplained declines in productivity
  - dangerous behavior/needless risk taking
  - unable to order tasks
  - forgetfulness
  - excessive focus on minute details
  - unexplained and frequent absences from work area
  - other (explain) \_\_\_\_\_
- 

**Long Term Symptoms**

- complaints from coworkers
  - excessive work absences
  - leaves job early for variety of excuses
  - comes late for a variety of excuses
  - accident prone
  - general poor and deteriorating physical condition
  - weight loss
  - other (explain) \_\_\_\_\_
-

**General Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**By (Signature)** \_\_\_\_\_

**Title:** \_\_\_\_\_

<p><b>ACTION</b></p> <p><input type="checkbox"/> Refer to Testing</p> <p><input type="checkbox"/> No Further Action at This Time</p>
--------------------------------------------------------------------------------------------------------------------------------------

**Meeting Notes:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of meeting: \_\_\_\_\_

# APPENDIX C

## POST-INCIDENT CHECKLIST AND REPORTING FORM

Date of Report: \_\_\_\_\_ Date/Time Period Covered by Observation: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Job Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Job Title: \_\_\_\_\_

Corroborating Witness (if applicable): \_\_\_\_\_

**The employee above (check box that applies):**

- was injured
- caused, in the trained supervisors opinion, a work-related accident
- was operating or helping to operate power tools, machinery, equipment, or vehicles involved in a work-related incident

**Description of Incident (describe the sequence of events that led to the incident and the employees involvement):** \_\_\_\_\_

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**Description of why trained supervisor feels employee's actions in this incident were substance-abuse related (e.g., symptoms, actions):** \_\_\_\_\_

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\_\_\_\_\_  
**Supervisor Signature**

**APPENDIX D**  
**EXAMPLE RE-TEST REQUEST FORM**

I, \_\_\_\_\_ (individual printed name), request that the split sample from the sample collected on \_\_\_\_\_ (date) be re-tested. I request that the sample be re-tested at the following laboratory:

**Name of Laboratory:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City, State Zip Code:** \_\_\_\_\_

**Contact and Phone Number:** \_\_\_\_\_

I understand that as part of this re-testing, the following will apply:

- the laboratory must be certified by the Substance Abuse and Mental Health Services Administration;
- I will be invoiced for costs associated with re-testing;
- if the split-sample result is confirmed following verification to be negative, I will be given back wages by my Employer if I was denied work, and also reimbursed for costs associated for the re-test.

\_\_\_\_\_  
Employee's Signature

## APPENDIX E

### WORKPLACE SUBSTANCE ABUSE TESTING AND TREATMENT POLICY PARTICIPANT POLICY ACKNOWLEDGMENT FORM

I, \_\_\_\_\_, acknowledge receipt of, and have read the Workplace Substance Abuse Testing and Treatment Policy and Agreement dated \_\_\_\_\_.

Furthermore, I understand and have been informed that refusal to submit to alcohol and drug testing and the appropriate specimen collection will constitute a violation of this Policy, and will subject me to the disciplinary action of the Policy.

\_\_\_\_\_  
Print Employee's Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Employee Social Security Number

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness' Signature

\_\_\_\_\_  
Witness Initials if Employee  
Refuses to Sign

## APPENDIX F

### WORKPLACE SUBSTANCE ABUSE TESTING AND TREATMENT POLICY

#### CONSENT AND RELEASE OF INFORMATION

I understand that as required by , a sample(s) of my (donor) body fluid(s) (\*) is being collected and tested for drugs and/or alcohol in accordance with the *Workplace Substance Abuse Testing and Treatment Policy* dated \_\_\_\_\_. I hereby agree to submit to a drug and/or alcohol test, as well as the medical review and reporting required in the Policy. Where applicable, I authorize the results of the test(s) be released to the Designated Employee Representatives at \_\_\_\_\_ and the union hall, per the Policy, after an evaluation by a laboratory qualified to review drug and/or alcohol test results has been done.

The results will not be released to any additional parties without my written authorization.

I also understand that I will be provided with copies of all test results in accordance with the Policy.

(\*) body fluids tests will normally utilize urine specimens, breath and blood specimens. Tests which entail the withdrawal of blood by a qualified medical person may be exercised in situations involving an injury accident where I am rendered unconscious and unable to provide a urine specimen, and I agree and consent to such a test under those circumstances.

I understand and have been informed that refusal to submit to alcohol and drug testing and the appropriate specimen collection will constitute a violation of this Policy, and will subject me to the disciplinary action of the Policy.

---

Print Donor's Name

---

Date

---

Donor's Signature

---

Print Witness Name

---

Date

---

Witness' Signature

---

Witness Initials if Employee  
Refuses to Sign