

**SHEET METAL WORKERS LOCAL UNION #33  
SUBSTANCE ABUSE TESTING  
AND  
TREATMENT PROGRAM POLICY**



**EFFECTIVE: JANUARY 1, 2023**

# TABLE OF CONTENTS

<b><u>TOPIC</u></b>	<b><u>PAGE</u></b>
I. PROGRAM OBJECTIVE	4
II. DEFINITIONS	4
III. POLICY AND PROGRAM STATEMENT	8
IV. POLICY AND PROGRAM ADMINISTRATIVE COMMITTEE	9
V. THIRD PARTY ADMINISTRATOR	9
VI. MEDICAL REVIEW OFFICER	10
VII. RIGHTS OF EMPLOYEES	10
VIII. VOLUNTARY DISCLOSURE	11
IX. SUBSTANCE ABUSE TESTING PROTOCOLS	11
A. CONFIDENTIALITY	11
B. SAMPLE COLLECTIONS	11
1. Mobile On-Site Collections	11
2. Clinical Collections	12
3. TPA Office Collections	12
C. TYPES OF TESTING TO BE CONDUCTED	12
1. Pre-employment Testing	12
2. Pre-access Testing	12
3. Random Testing	12
4. Post-Accident/Incident Testing	12
5. Reasonable Suspicion Testing	13
6. Periodic Testing	13
7. Return To Work, Post Treatment, Rehabilitation Testing	13
8. Probation Status/Follow-up Testing	13
9. Retest	13
10. Federally Mandated Testing	14
11. Other Mandated Testing	14
D. SPECIMEN ANALYSIS	14
E. RECORD KEEPING	15

# TABLE OF CONTENTS

<u>TOPIC</u>	<u>PAGE</u>
X. POLICY VIOLATIONS	15
A. Determination for Violation of Policy	15
B. Confirmed Positive Test Results	15
1. Medical Review Officer Notification	15
2. Illegal and/or Controlled Substances	15
3. Alcoholic or Intoxicating Beverages	16
C. Reinstatement Requirements	16
D. Probationary Status/FOLLOW-UP TESTING	16
E. Consequences for Violation of Substance Abuse Testing Policy	17
XI. SEARCHES	17
XII. GRIEVANCE	17
XIII. COST OF COLLECTION AND TESTING	17
XIV. POLICY REVISION DATES	18

# SHEET METAL WORKERS LOCAL UNION #33 SUBSTANCE ABUSE TESTING & TREATMENT PROGRAM POLICY

## 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 Program Policy (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 Employers and job site Owners, and to maintain a central database of participating individuals in order to expedite their employment and access to job sites.

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 workplace 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 workplace safety and reduce substance abuse-related injuries and property damage.
5. Reduce substance abuse-related absenteeism and tardiness.
6. Refer employees with substance abuse problems to 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 (DER)”** – 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 a DER (designated employer representative).
7. **“Company Premises”** – Any and all property, facilities, land, parking lots, structures, and vehicles owned, leased, used or under the control of the Employer, and any job site to which the Employer assigns any Employee.
8. **“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:

### **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.
9. **“Employee”** – Any individual employed by the Employer or sub-contractor who directly or indirectly performs work for a customer.
  10. **“Illegal/Unauthorized Drugs”** – Any drug that is illegal under state or federal law 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. Notwithstanding state medical marijuana laws, marijuana remains an illegal drug under federal law.
  11. **“Incident”** - An event which has all the attributes of an accident, except that no apparent or perceived harm was caused to person or property.

12. **“Legal/Controlled Drugs”** – Any prescribed or over-the-counter drug, which has been legally prescribed/obtained and is being used for the purpose for which it was prescribed/manufactured.
13. **“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.
14. **“Negative Test Result”** - A negative result indicates that the alcohol level is below .02 BAC and/or an illegal/unauthorized substance below the levels as described in this Policy and Program, has not been detected in the person’s specimen by the laboratory.
15. **“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.
16. **“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 illegal/unauthorized drug(s) in the person’s system as described in this Policy and Program.
17. **“Possession”** - Actual or constructive care, custody, control or immediate access to illegal or unauthorized drugs.
18. **“Prohibited Substances and Items”** include:
  - a) Illegal or legal drugs that have not been legally prescribed 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.
  - c) Alcoholic beverages; and
19. **“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 employer 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 E, Reasonable Cause/Suspicion Documentation, shall 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.

20. **“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.
21. **“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.
22. **“Substance Testing”** – Drug analysis by means of urine and alcohol analysis by means of breath, urine, blood, and/or saliva.
23. **“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.
24. **“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.
25. **“Unsuitable Test Result”** - The laboratory determines that the specimen contains a foreign contaminate or the individual has ingested fluids to mask the illegal/ unauthorized drug, but the levels are not in the range to legally determine if the specimen is adulterated or substituted. An unsuitable test result will require the individual to provide another sample under observation.
26. **“Employee Eligibility Status”** – The TPA shall maintain a database of employees indicating their current eligibility status in the Program. An employee's status shall indicate the individual's compliance or non-compliance with the Program's terms and conditions as follows:
- a. **Active Status:** employees who have been subject to and have complied with the Program's terms and who therefore are eligible for immediate placement without having to take another drug test.
  - b. **Inactive Status:** employees who have had a diluted or unsuitable test result and need to be re-tested.
  - c. **Pending Status:** employees who have provided a specimen, but the final results have not been received from the laboratory and / or MRO.

- d. **Random Status:** employees who have been selected for a random drug test and have not yet been tested.
- e. **Reinstate Status:** employees who have been suspended for violation of the Policy and must complete the reinstatement requirements prior to being returned to Active status.

### 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 illegal and 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 Communicator of such prescription substance use. For the safety of all employees, the Communicator will consult with the individual and the individual's physician to determine if a reassignment of duties is necessary. The Communicator 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. Each employee must acknowledge in writing their acceptance of the Policy and Program and provide consent to be tested for drugs and alcohol and authorize release of the results to the Third-Party Administrator, communicators, the clinic, the laboratory, the MRO and the Union.
- 4. Nothing in this policy overrides the employer's superseding obligation, duty, and discretion under OSHA to provide a safe work site. Likewise, nothing in this policy overrides the employer's rights related to Workers' Compensation claims as the employer retains all such rights as outlined in statute, administrative code, and/or specific state law.

### IV. POLICY AND PROGRAM ADMINISTRATIVE COMMITTEE

The development, implementation and overall responsibility of this Policy and Program shall be the joint responsibility of the Policy and Program Administrative Committee (Committee). The Committee shall be appointed consisting of (**x – odd number**) members. Labor and Management shall each appoint an equal number of members with a neutral party filling the remaining spot. The neutral party shall be agreed to by mutual consent of the labor and management members. The Committee shall:

- 1. Determine operating procedures.
- 2. Interpret the Policy and Program.



3. Appoint a Third-Party Administrator.

## **V. THIRD PARTY ADMINISTRATOR**

The Committee 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.
3. Provide chain-of-custody forms, test kits and collection locations to insure both proper chain of custody protocols and employee confidentiality is met when applicable.
4. Inform the Committee 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 contact person 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.
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. Assist in referring individuals who have tested positive for drugs and/or alcohol to the appropriate Health and Welfare Program for counseling.

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 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.

## VII. RIGHTS OF EMPLOYEES

Employees shall have the following rights:

1. Provided with this Policy and Program prior to being requested to provide a drug and alcohol test. The employer or union shall provide each employee with **Exhibit A - Employee Notice of Policy, Consent and Release Form** prior to being tested.
2. 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. 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 two (2) business days 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. 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 employee's employer.
6. Except for a retest and a return-to-work test, all costs associated with this Policy and Program shall be borne by the employer (unless said costs are paid by an alternative manner).

## VIII. VOLUNTARY DISCLOSURE

The Policy and Program recognizes that chemical dependency and other medical behavioral conditions creates serious problems for employees, 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.

## IX. SUBSTANCE ABUSE TESTING PROTOCOLS

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

**A. 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 employer's Communicator, in accordance with this policy, of the Employee's Eligibility Status , 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 Unemployment Compensation Commission in which the test results are a material issue.

**B. SAMPLE COLLECTIONS:** Certified Collection Specialists and Breath Alcohol 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:

- 1. 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.
- 2. Clinical Collections:** The TPA shall decide which clinical collection sites for testing of employees.
- 3. TPA Office Collections:** Substance abuse collections may be available when the TPA has an office in the area.

### C. TYPES OF TESTING TO BE CONDUCTED:

The following types of testing will be performed:

- 1. 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. Applicants that have a

Current or Active Status in the Program can immediately go to work without being tested.

2. **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. Employers shall be responsible for the cost of Pre-access Testing.
3. **Random Testing:** Employees shall be subject to an unannounced random drug testing. Random selections will be made four (4) times a year at a quarterly rate of ten (10) 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 employees selected for random testing, communicators shall have ten (10) calendar days to complete the random testing requirement. Employees must report for random testing at the time of notification by their communicator of their random selection, which must be within twenty-four (24) hours of notification.
4. **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. Such Post-Accident/Incident Testing shall only occur when there is a reasonable suspicion that drug and/or alcohol use contributed to the incident and when such Post-Accident/Incident Testing can accurately identify impairment caused by drug and/or alcohol use, unless such Post-Accident/Incident Testing is being done to comply with Public Works Projects or any other federal or state law, and the rules and regulations promulgated thereunder.

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. Employers shall be responsible for the cost of Post-Accident Testing.

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.

The Company will make transportation arrangements for any employee to be tested following the mandatory guidelines of the Department Health and Human Services (DHHS).

5. **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. Employers shall be responsible for requesting a Reasonable Suspicion Test and for the cost of specimen collection and testing.

During the process of establishing reasonable suspicion for testing, the employee has the right to request his on-site union representative to be present. If an on-site union representative is not available, every effort will be made to contact a representative to come on-site.

The Company will make transportation arrangements for any Employee to be tested following the mandatory guidelines of DHHS.

6. **Periodic Testing:** A drug test will be required of individuals who have not been tested within a thirty-six (36) month period.
7. **Return To Work, Post Treatment, 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. The cost of a Return to Work Test shall be borne by the Employee.
8. **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 up to four additional random testing or as may be recommended by the substance abuse professional for a period of twelve (12) months after returning to work
9. **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 two (2) business days 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 employer.
10. **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.
11. **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.

**D. SPECIMEN ANALYSIS:** All samples collected under this Policy and Program will be analyzed by a SAMHSA certified laboratory, and shall include an initial Enzyme Multiplied Immunoassay Screening Test (EMIT) 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:

<u>Drugs Tested</u>	<u>(EMIT) Initial Test Cut-Off Level (ng/ml)</u>	<u>(GC/MS) Confirmation Test Cut-Off Level (ng/ml)</u>
Amphetamines	1000	500
Barbiturates	300	200
Benzodiazepines	300	200
Cannabinoids (Marijuana - THC)	50	15
Cocaine Metabolite	300	150
Methadone	300	200
Opiates	2,000	2,000
Phencyclidine (PCP)	25	25
Propoxyphene	300	200
Breath/Blood Alcohol Content (BAC)	.02%	.02%

1. The Policy and Program shall have the right to change the drugs tested, the cut-off levels and the analysis procedures as new technology in substance abuse testing warrants.
2. Any employee who provides an unsuitable test result will be required to have subsequent drug tests observed.
3. Blood, saliva or breath screen tests are acceptable for alcohol testing.
4. Breath screening for alcohol will utilize an Evidential Breath Testing Device that
  - Provides a printed triplicate result (or three consecutive identical copies of a result) of each breath test;
  - Assigns a unique number to each completed test, which the BAT and employee can read before each test and which is printed on each copy of the result;
  - Prints, on each copy of the result, the manufacturer's name for the device, its serial number, and the time of the test.
  - Distinguishes alcohol from acetone at the 0.02 alcohol concentration level;
  - Tests an air blank; and
  - Performs an external calibration check.

**E. RECORD KEEPING:** Electronic or hard copy testing results shall be maintained by the TPA for the following specified periods:

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

## **X. POLICY 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.

### **A. Determination for Violation of Policy:**

1. A confirmed positive drug or alcohol test result.
2. Failure or refusal to sign Notice of Policy, Consent and Release to be tested.
3. Failure to contact the Medical Review Officer as directed.
4. Failure to report as directed for testing.
5. The use, possession, sale or distribution of alcohol or a controlled illegal or unauthorized substance, or the presence of any employee in the workplace with such ingested substances for non-medical reasons.
6. Working, reporting to work, being in the workplace, or in a Customer/Employer owned, leased or rented vehicle while Under The Influence Of Alcohol (.02 BAC or greater).
7. Switching, 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.
8. 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.
9. 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.

### **B. Confirmed Positive Test Results:**

#### **1. 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.

#### **2. ILLEGAL AND/OR CONTROLLED SUBSTANCES**

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

#### **3. 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:

- a. The consumption, manufacture, distribution, possession, use, sale, or storage of any alcoholic beverage while on or in the workplace is prohibited.
- b. The performance or attempted performance of any job function or the operation of any Owner and/or employer property or equipment while Under the Influence of Alcohol.
- c. An alcohol screening and confirmation result of .02 BAC or greater.

### **C. 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:

1. 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.
2. 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 second and all subsequent return-to-work/follow-up tests will be borne by the individual and must be paid for in advance by the individual to the fund.
3. 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.
4. The individual agrees to be subject to Probationary Status/Follow-up Testing.
5. Individual completes Exhibit F – Reinstatement Requirements

### **D. Probationary Status/Follow-up Testing:**

Upon completion of the reinstatement requirements, individuals will be subject to additional random testing at an annualized rate of fifty (50) percent for a period of up to twenty-four (24) months. During this period, the Policy and Program will conduct up to four of these additional random tests in the first twelve (12) months, all costs for follow-up testing shall be borne by the Employee.

### **E. Consequences for Violation of the Substance Abuse Testing Policy:**

The following consequences, in addition to the above Reinstatement Requirements apply:

1. *First Violation of Policy:* An employee who tests positive for the first time will be ineligible for employment until the employee has completed the reinstatement requirements and has provided a negative drug and alcohol return to work test.
2. *Second Violation of Policy:* An employee who tests positive for the second time will be ineligible for employment for thirty (30) 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.



3. *Third Violation of Policy:* An employee who tests positive for the third time will be ineligible for employment for one (1) 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.

Employees who have provided negative test results for three (3) consecutive years after a positive test result will revert back to the consequences of a first violation as described in Section X, Subsection E, paragraph 1.

## **XII. GRIEVANCE**

All aspects of this Policy and Program shall be subject to the grievance procedure of the applicable collective bargaining agreement.

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

1. The Association will pay for the cost of all specimen collections and testing under Pre-employment, Random and Periodic Testing.
2. The cost of all specimen collections and testing for Pre-Access, Reasonable Suspicion and Post-Accident/Incident Testing is the responsibility of the Employer
3. Payment for the cost of testing for a Retest and Return to Work Test will be the responsibility of the employee.
4. Employees will not be reimbursed for lost wages and benefits to provide a drug and/or alcohol test and must provide the test on their own time.
5. The Fund will pay for all other costs associated with the Policy and Program, not covered by the Association and if explicitly excluded in this Policy.

## **XIV. POLICY REVISION DATES**

Policy Effective Date: January 1, 2023