

## PORT OF SAINT JOHN EMPLOYERS ASSOCIATION & I. L. A. LOCAL 273

### DRUG AND ALCOHOL POLICY

#### POLICY STATEMENT

The Port of Saint John Employers Association (“PSJEA”) is dedicated to the health and safety of our Employees and committed to providing the highest standard to its customers and to the public. The PSJEA recognizes that its Employees have the fundamental right to work in a safe environment and has determined that there are serious safety and other consequences associated with the use of Illicit Drugs and the inappropriate use of Alcohol, Marijuana and Medications at the Workplace.

The use of Illicit Drugs, and the inappropriate use of Alcohol, Marijuana and Medications can adversely affect the ability of an Employee to work, which may have serious adverse effects on safety, efficiency, and the productivity of Employees and the industry. Employees at the Workplace often work independently and with equipment or material that poses a threat to their own safety, to the safety of other Employees and to Company Property, as well to the safety of non-employees and other Property.

The majority of positions in the Workplace involve the use of, or being in the presence of, dangerous equipment or working in areas where extra alertness is required. As such, incapacity due to the use or after effects of Illicit Drugs, Alcohol, Marijuana or Medications could result in direct and significant risk of injury or death to the Employee, to others and to Company Property.

#### DEFINITIONS

*See Appendix A*

#### OBJECTIVE

To promote safety and prevent accidents as a result of Illicit Drug use and the inappropriate use of Alcohol, Marijuana and Medications.

To reduce in the Workplace the negative and unsafe effects of Illicit Drug use, and the negative and unsafe effects from the inappropriate use of Alcohol, Marijuana or Medications, through education and, if necessary, rehabilitation or discipline.

## POLICY STANDARDS

To maintain our Objective, the company must take measures which are effective in ensuring that its employees, when performing their duties, are completely free of the negative effects of alcohol and drug use. The company has established and will strictly enforce this alcohol and drug policy.

To minimize the risk of unsafe and unsatisfactory work performance, all Employees are expected to report Fit for Duty, and remain Fit for Duty throughout their work day or shift.

To accomplish this, the following standards apply:

- (a) **Illicit Drugs:** The following are prohibited while on Company Property and when an Employee is working:
  - i. The use, possession, distribution, offering or sale of Illicit Drugs or Illicit Drug paraphernalia;
  - ii. The unauthorized possession of Medications without a legally obtained prescription or authorization, and unauthorized distribution, offering or sale of Medications (trafficking);
  - iii. Reporting under the influence of Illicit Drugs; and
  
- (b) **Alcohol:** (Subject to limited exceptions for: legally purchased alcohol in sealed containers in personal vehicles on Company Property)
  - i. The use, possession, distribution, offering, sale, purchase or receipt of Beverage Alcohol is prohibited when on Company Property
  
- (c) **Marijuana:** (Subject to limited exceptions for legally purchased Marijuana in sealed containers in personal vehicles on Company Property)
  - i. The recreational use, possession, distribution, offering, sale, purchase or receipt of Marijuana is prohibited when on Company Property
  
- (d) **Medications:**
  - i. Employees are expected to responsibly use prescribed, authorized and over-the-counter Medications. The intentional misuse of Medications (e.g. using the Medication not as it has been prescribed, authorized or directed by the pharmacy, using someone else's prescription Medication, combining Medication and Alcohol use against direction, etc.) while working or while on Company Property is prohibited. Medications of concern are those that inhibit or may inhibit an Employee's ability to perform their job safely and productively;
  - ii. Employees are expected to investigate (through their doctor or pharmacist) whether a Medication can affect the safe operation of any equipment associated with the Employee's job and the safe performance of the Employee's job duties generally;

- iii. If the Medication the Employee is using will affect the safe operation of any equipment associated with the Employee's job and/or the performance of the Employee's job duties, the Employee must take appropriate action to minimize the safety and productivity risk by advising the Employer and/or the PSJEA of any safety or productivity risk and any request for modified duties; and
- iv. The PSJEA reserves the right to assess the safety or productivity risk and confirm the appropriateness of any modified work or the extent of any safety or productivity risk by contacting the Employee's physician without breaching medical confidentiality.

(e) Called-in:

If unexpected circumstances arise where an Employee is requested to perform unscheduled services while under the influence of Illicit Drugs, Alcohol or Medications that could impact safe operations, it is the responsibility of the Employee to decline the order.

## RESPONSIBILITIES

The Company and Employees are responsible for the success of this Policy.

It is the responsibility of the Company that each employee receives a copy of this drug and alcohol policy.

The Company has the responsibility to:

- (a) implement and apply this Policy;
- (b) upon implementation of this Policy, and thereafter as needed, provide all Employees, with education on the use and effects of Illicit Drugs, as well as the effects of the inappropriate use of Alcohol, Marijuana or Medications;
- (c) provide all Employees with access to a confidential Member and Family Assistance Program ("MFAP"). The MFAP program is available to assist such Employees who are experiencing addiction to Illicit Drugs, Alcohol, Marijuana or Medications;
- (d) provide a safe working environment for all Employees and, to that end, to strive to eliminate any negative and unsafe effects on Employee performance and the Workplace through the use of Illicit Drugs and/or the inappropriate use of Alcohol, Marijuana or Medications; and
- (e) ensure there is a complete investigation into any Policy violation.

Each Employee has the responsibility to:

- (a) read and understand this Policy and to ask questions of the Company and its representatives;

- (b) to comply with this Policy;
- (c) report for duty, and remain Fit for Duty throughout their workday or shift, free of any negative effects from Illicit Drug use or the inappropriate use of Alcohol, Marijuana or Medications;
- (d) investigate whether a Medication they are taking (e.g. Marijuana, Tylenol 3, etc.) may impact their ability to work safely and productively and advise a Company Supervisor or PSJEA of any safety or productivity risk and any need for modified work because of legitimate Medication use;
- (e) to cooperate fully with any investigation into a possible Policy violation, including Alcohol and Drug testing as set out under this Policy; and
- (f) Disclose the Employee's dependence on Alcohol or Drugs

Each Supervisor has the responsibility to:

- (a) monitor ongoing performance to ensure safe operations and effectiveness of this Policy;
- (b) guide Employees who seek assistance for a problem to appropriate resources;
- (c) immediately advise the PSJEA of any situation of Alcohol, Marijuana or Drug possession in violation of the Policy;
- (d) immediately advise the PSJEA, the Union Safety Representative and the Union Representative if an Employee is Unfit for Duty; and
- (e) take appropriate action if any other individual is unfit on Company Property.

## TESTING

Drug and Alcohol testing will be done in the following circumstances:

### ***Reasonable Cause***

In all situations, when a Supervisor or PSJEA Staff believes an Employee is Unfit for Duty, the Employee will be escorted, with a Union Representative, to a safe place and given an opportunity to explain why the employee appears to be in a condition Unfit for Duty. If the Supervisor or PSJEA Staff conducting the interview still believes the employee is in a condition Unfit for Duty, then, the following actions may be taken, namely:

- referral for an alcohol and drug test; and/or
- referral for a medical assessment; and/or
- provide transportation to the collection site or hospital, depending on the circumstances, and then to the Employee's place of residence or the care of another person.

For an Alcohol and Drug Test to be required, there must be reasonable grounds to believe that the appearance, possession of Drug Paraphernalia or conduct of an Employee, while on duty, are indicative of the use of Drugs or Alcohol e.g. specific, personal observations resulting from, but not limited, to:

- a) observed use or evidence of use of Drugs or Alcohol by the Employee (e.g. smell of Alcohol);
- b) erratic or unusual Employee behavior;
- c) changes in the physical appearance of the Employee (e.g. bloodshot eyes); and
- d) changes in the speech pattern of the Employee (e.g. slurring of speech).

Prior to requiring an Employee to undergo Reasonable Cause Substance Testing, the PSJEA will meet with the Employee and a Union Representative promptly to explain the basis for the Reasonable Cause Substance Testing and consider any information provided by the Employee.

The decision to refer for an Alcohol and Drug Test shall be made by PSJEA Staff or Supervisor with PSJEA Staff agreeing. The basis for the decision will be documented as soon as possible after the decision to test has been made.

### ***Post-Incident***

When an Incident occurs at the Workplace, the PSJEA, may require all involved Employees to be tested for Drugs and Alcohol as soon as reasonably practicable. The following procedures apply:

- (a) the need for a test must be documented as part of the preliminary investigation as soon as practical after the triggering event
- (b) a test will not be necessary if there is clear evidence that the acts or omissions of Employees could not have been a contributing factor (e.g. structural or mechanical failure);
- (c) Employees referred for a test will only be those who are identified as having been directly involved in the chain of acts or omissions leading up to the event, including failure to appropriately respond to or aggravation of an Incident requiring response;
- (d) Employees will be escorted to a safe place on company property while the PSJEA, the Union, safety representative and the Employees Union Representative are contacted. The Employee will not be left unattended and not permitted to leave the site until the testing and investigation process has been completed.
- (e) Prior to requiring an Employee to undergo Post-Incident Substance Testing, the PSJEA will meet with the Employee and a Union Representative promptly to explain the basis for the Post-Incident Substance Testing and consider any information provided by the Employee.

Samples will be collected as soon as possible after the triggering incident, but collection attempts will end 8 hours after the Incident for an alcohol test, and 32 hours after the Incident for a drug test should the employee(s) be unavailable immediately following the incident due to hospitalization or the need to seek immediate medical attention. If testing occurs more than four hours from the time of the incident it will be documented in writing the reason for the delay.

Alcohol tests will be administered by a trained collector using a calibrated breathalyzer that meets evidentiary standards, with a printout of test results. All drug tests will be administered by oral swab.

For the purpose of this Policy, a Positive Alcohol Test is one in which the blood alcohol concentration at or above .04 BAC (Blood Alcohol Content). A positive test for THC using the oral swab test will be 10 ng/ml.

Collection of oral swabs and administration of alcohol tests will be performed by trained nurses or trained collection agents.

The Medical Review Officer's (MRO) role is to review and verify test results and discuss them with the employee in an effort to determine whether a positive test result could have resulted from the legitimate use of medications or other medical explanations. The MRO will then determine what is to be reported to the Management.

If an employee tests positive for alcohol and/or non -negative for drugs, he/she shall be informed immediately and sent home from the workplace in a taxi or other acceptable form of transportation. He/she shall not be permitted to drive a vehicle. The police will be notified should the employee refuse to comply with this direction.

### ***Return to Work Testing***

Any Employee who is determined by the PSJEA to have violated this Policy may, as a pre-condition of any return, be required to pass Drug or Alcohol testing within the one-week period immediately prior to the Employee's return to work date. Such Employee will be required to undergo follow up testing. If an Employee has a positive follow-up test, the Employee will be subject to appropriate discipline, which may include dismissal.

### ***Follow-Up Testing***

Any Employee who is determined by the PSJEA to have violated this Policy must, as a pre-condition of the Employee's return to work, undergo and comply with follow up testing. Follow up testing may include, but not limited to, at least six (6) Drug and Alcohol tests in the first twelve (12) months following the Employee's return to work.

### **FAILURE TO COMPLY WITH POLICY**

A refusal to complete the testing process is a Policy violation. A refusal includes any attempt to delay reporting for a test, refusal to submit to a test, refusal to agree to disclosure of a test result to the Company, or a confirmed attempt to tamper with a test sample.

Any Employee who has a Positive Drug Test or Positive Alcohol Test is in violation of this Policy.

The PSJEA may discipline or terminate for just cause the employment of an Employee who violates this Policy.

No Employee will be disciplined as a result of the first and second time the Employee has a Positive Drug Test or a Positive Alcohol Test pursuant to this Policy, provided that:

- (a) the Employee has previously disclosed any dependence;
- (b) the Employee is assessed as being Drug or Alcohol (or both) dependent;
- (c) Such Drug or Alcohol (or both) dependent Employee fully complies with the requirements of the Program and the provisions of this Policy throughout the duration of the Program;
- (d) the Employee successfully completes the Program;
- (e) the Employee undergoes return to work testing of this Policy and does not have a Positive Drug Test or a Positive Alcohol Test;
- (f) the Employee does not have a Positive Drug Test or a Positive Alcohol Test pursuant to subsequent testing conducted in accordance with this Policy, including follow-up testing and;
- (g) The aforesaid Employee will be subject to action, including disciplinary action or termination of employment for any subsequent breach of this Policy, such action tailored to the individual's circumstances and just cause.

The parties will apply this Policy consistent with the Collective Labour Agreement, recognizing that:

- i. The PSJEA has the right to impose discipline for violations of this policy; and
- ii. I.L.A. Local 273 has the right to grieve any situation affecting an Employee under this Policy, including whether an Employee was impaired.

In order for this policy to be effective in ensuring that employees will perform their duties unimpaired by drugs and/or alcohol, the provisions of this policy must be duly enforced.

#### **MEMBER AND FAMILY ASSISTANCE PROGRAM**

MFAP is a professional, confidential, and proactive service to support you with a wide range of personal, family, and work-related concerns. MFAP is here for you whenever you need it, 24 hours a day, seven days a week, 365 days of the year. Within a confidential environment you can receive counselling for any challenges — whether it's a first step in facing a possible addiction or managing day-to-day stress.

Contact Information:

1-800-663-1142

TTY: 1-888-384-1152

International (Call collect): 604-689-1717

homeweb.ca

## **POLICY EVALUATION**

The PSJEA and ILA Local 273 shall agree on changes to this Policy including with respect to the Drugs tested, the cut-off levels, and the analysis procedures as new legal standards, methods, or technologies in substance testing warrants. The Parties mutual desire is to utilize the best scientific methods reasonably commercially available and to keep current with developments in this area. This policy will supersede all prior policies and statements related to drugs or alcohol.



## APPENDIX A

### DEFINITIONS

For the purpose of this Policy, the following terms are defined as:

- (a) “Alcohol” - means the intoxicating agent in Beverage Alcohol, ethyl Alcohol, or other low molecular weight Alcohols, including methyl and isopropyl.
- (b) “Beverage Alcohol” - means beer, wine and distilled spirits.
- (c) “Company” - includes PSJEA and its member Employers.
- (d) “Company Property” - includes all real or personal property, facilities, land, buildings, equipment, containers, vehicles and vessels whether owned, leased, used by or worked on by PSJEA and its members, wherever they may be in the Port of Saint John. “Workplace” has a corresponding meaning.
- (e) “Drug” and “Drugs” - means any substance, including Alcohol, Marijuana, Illicit Drugs or Medications, the use of which has the potential to change or adversely affect the way a person thinks, feels or acts. For purposes of this Policy, Drugs of concern are those that inhibit an Employee’s ability to perform his or her job safely and productively.
- (f) “Drug Paraphernalia” - includes any personal property which is associated with the use of any Drug, substance, chemical or agent the possession of which is unlawful in Canada.
- (g) “Employee” – for the purposes of this Policy, the term employee includes all members of the Unions, White Card, Referrals and all staff and management working for a Company in the Port of Saint John.
- (h) “Fit for Duty” - means being able to safely and acceptably perform assigned duties without any limitations due to the use or after effects of Illicit Drug use or the inappropriate use of Alcohol, Marijuana or Medications.
- (i) “Illicit Drug” - means any Drug or substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law (e.g. street Drugs such as cocaine).
- (j) “Incident” - means a Workplace occurrence which results in any of the following:
  - i. a fatality or serious personal injury to an Employee, a customer’s employee, a member of the public or any other person at the Workplace requiring medical attention away from the Workplace;
  - ii. significant loss or damage to Company Property or other property;
  - iii. a near miss which could have resulted in serious injury or significant damage;
  - iv. a significant environmental spill; or

- v. physical altercation with another person.
  
- (k) “Marijuana” - (also commonly referred to by various names, including pot, grass, reefer, joint, weed, hashish, cannabis, etc.) – means:
  - i. any part of a cannabis plant, including the Phyto cannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not;
  - ii. any substance or mixture of substances that contains or has on it any part of such a plant; and
  - iii. any substance that is identical to any Phyto cannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.
  - iv. Marijuana does not mean a non-viable seed of a cannabis plant, a mature stalk, without any leaf, flower, seed or branch, of such a plant, fibre derived from a mature stalk, the root or any part of the root of such a plant.
  
- (l) “Medication” - means a Drug obtained legally, either over the counter or through a doctor’s prescription or authorization.
  
- (m) “Unfit for Duty” - means not being able to safely and acceptably perform assigned duties without any limitations due to the after effects of Illicit Drug use or the inappropriate use of Alcohol, Marijuana or Medications.
  
- (n) “Workplace” - includes all real or personal property, facilities, land, buildings, equipment, containers, vehicles and vessels whether owned, leased, used by or worked on by PSJEA and its members, wherever they may be in the Port of Saint John. “Workplace” has a corresponding meaning.

## APPENDIX B

### PROTOCOL FOR DEALING WITH A “DRY MOUTH”

The following protocol will apply in the event of “Dry Mouth” preventing an oral swab test for THC.

1. The donor is required to drink water as directed by the tester.
2. The donor will be required to undergo a minimum of 3 attempts at obtaining sufficient oral fluid using the oral swab.

#### ORAL SWAB CUT OFF LEVELS

Marijuana/THC	10 ng/ml
Amphetamines, Methamphetamine	50 ng/ml
Cocaine	8 ng/ml
Opiates Morphine, Codeine, Hydrocodone, Hydromorphone, Oxycodone	40 ng/ml 4 ng/ml
6-Acetylmorphine	
Phencyclidine (PCP)	10 ng/ml