

Policy:	Substance Abuse and Testing Policy	Policy Reference and Revision Number:	HR 005 Rev 000
Department:	Operations and HSSE	Effective Date:	05/01/2022
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Purpose

To promote and maintain a workplace free from the abuse of drugs and alcohol and the effects of such misuse. BWC Terminals LLC, and its affiliates (“the Company”) values its employees and customers and desires a safe, productive, and healthy workplace. Drug and/or alcohol abuse and their lingering effects adversely affect productivity, work quality and dependability, and pose a significant threat to the safety, security and welfare of the Company, its employees, customers, vendors and the general public. Substance abuse can also affect an employee’s opportunity for advancement and successful employment. Accordingly, the Company has established and administers this Substance Abuse and Testing Policy (“Policy”).

Policy

This Policy applies to all employees based in the United States, except as expressly noted. This policy also applies to applicants for U.S. based positions to the extent that they are subject to pre-hire testing as described in this policy as a condition of hire.

To the extent that this Policy conflicts with federal, state, and local laws, regulations or collective bargaining agreements, this Policy shall, for application within the relevant jurisdiction, be deemed to be amended to comply with local laws, regulations, or collective bargaining agreements. Employees and applicants in Iowa or Minnesota should review the BWC policy addendum specific to their location.

Definitions

Drug

A controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act (CSA), 21 U.S.C. § 812, the CSA’s implementing regulations found at 21 C.F.R. Part 1308 and comparable state laws and regulations. “Drug” includes but is not limited to cocaine, opiates, cannabinoids amphetamines and phencyclidine (PCP) as well as medications available in the United States only by prescription.

Illegal drugs

All drugs that are illegal to use or possess under federal, state, or local law, including marijuana and marijuana products (items containing THC), as well as prescription medication which is used in a manner inconsistent with the prescription or for which the individual does not have a valid prescription.

Marijuana

Means marijuana and marijuana products (that is, products containing tetrahydrocannabinol). These products may be approved for medical and/or recreational use in many states but remain illegal to use and/or possess under federal law.

Note: individuals subject to this Policy should be aware that medications and products obtained outside the United States may contain ingredients that are unlawful to import, use or possess within the United States and take steps to ensure that they do not misuse any such unauthorized substances.

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Under the influence of alcohol

(1) the presence of alcohol in the individual's system which equals or exceeds an alcohol concentration of 0.02; or (2) behavior, appearance, speech, or body odors that lead a supervisor to reasonably suspect that the employee is impaired by alcohol during working time or on Company premises.

Under the influence of illegal drugs

(1) the presence of a drug or its metabolites in an individual's test specimen, demonstrated by a confirmed positive drug test result verified by a Medical Review Officer, or (2) behavior, appearance, speech, or body odors that lead a supervisor to reasonably suspect that the employee is impaired by illegal drugs.

During working time

Means time during which an employee is at work or being paid to work for or represent the Company or an employee is in fact representing the Company's interests. The term includes all break and meal periods.

Procedure

Employees are strictly prohibited from engaging in the conduct listed below.

1. With respect to drugs, employees violate this Policy by engaging in the following conduct, regardless of whether the conduct occurs during work time or on Company premises or property, except as otherwise noted or provided in this Policy:
 - a) bringing and/or storing (including in a desk, locker, automobile, or other repository) illegal drugs, marijuana and marijuana products, or drug paraphernalia on the Company's premises or property, including Company-owned or leased vehicles, in vehicles used for Company purposes or a customer's premises, or attempting to do so.
 - b) having possession of illegal drugs or being under the influence of illegal drugs, including marijuana and marijuana products, (including CBD products) while working or on Company or customers' premises or while operating Company-provided vehicles is strictly prohibited.
 - c) using, consuming, transferring, offering, transporting, distributing, manufacturing, selling, purchasing or dispensing drugs or attempting to do so other than as authorized by law.
 - d) misusing prescription drugs which includes exceeding the prescribed dosage or using others' prescribed medications.
 - e) switching, tampering with, diluting or adulterating any specimen or sample collected under this Policy, or attempting to do so.
 - f) refusing to cooperate with the terms of this Policy, including by participating in investigations of possible policy violations, and taking drug and alcohol tests when asked. A refusal to cooperate includes conduct obstructing testing such as failure to sign necessary paperwork,

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failing to report to the collector and/or collection site at the appointed time, failing to follow collector direction, and failing to be reasonably available for a post-accident test.

- g) failing to consent to, participate in and abide by the terms and recommendations of any Substance Abuse Professional or Employee Assistance Program (EAP) to which the Company makes a referral for evaluation/assessment in lieu of discipline, including recommendations relating to rehabilitation or treatment programs. Such prohibited failures include but are not limited to failure to follow prescribed education or treatment, including after-care and failing to provide, if requested by the Company, consent to communicate with any SAP, EAP or rehabilitation or treatment program regarding progress, compliance, and ability to perform assigned job duties safely; or,
- h) failing to advise a supervisor or manager of the use of a prescription drug or other substance in accordance with this Policy's Prescription Drug Use section.

2. With respect to alcohol, employees violate this Policy by engaging in the following conduct during work time or on Company premises or property, or as otherwise provided:

- a) bringing and/or storing (including a desk, locker, Company automobile, or other repository) alcohol on Company premises or property, including Company owned or leased vehicles, in vehicles used for Company purposes or a customer's premises or attempting to do so (if an employee receives a gift of alcohol or otherwise comes into possession of alcohol during the work day, the item must remain sealed and stored out of sight in the employee's vehicle or other secure location and should be removed from Company premises when the employee leaves for the day);
- b) possessing open containers of alcohol, being under the influence of alcohol or testing positive for alcohol.
- c) using, consuming, offering, transporting, distributing, selling or dispensing alcohol or attempting to do so.
- d) refusing to cooperate with the terms of this Policy which includes participating in investigations of possible policy violations and taking drug and alcohol tests when asked. A refusal to cooperate includes conduct obstructing testing such as failure to sign necessary paperwork, failing to report to the collector and/or collection site at the appointed time, failing to follow collector direction, and failing to be reasonably available for a post-accident test;
- e) failing to consent to, participate in and abide by the terms and recommendations of any Substance Abuse Professional or Employee Assistance Program (EAP) to which the Company makes a referral for evaluation/assessment in lieu of discipline including recommendations relating to prescribed education or treatment, including after-care and failing to provide, if requested by the Company, consent to communicate with any SAP, EAP or rehabilitation or treatment program regarding progress, compliance, and ability to perform assigned job duties safely;

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- f) failing to notify the employee's supervisor before coming to work if the employee believes that the employee is under the influence of alcohol.

There are occasions when it is permissible to consume reasonable amounts of alcohol, notwithstanding the above prohibitions – specifically, moderate alcohol consumption is acceptable by those of legal drinking age at: 1) Company sponsored/sanctioned events, provided that consumption of alcohol at such events is authorized in advance by Company Senior Management (e.g., authorized consumption of alcohol at social events such as holiday parties and summer picnics), and 2) business entertainment/events involving sales/marketing staff or Company executives. Note: The Company does not require or encourage employees to consume alcohol at Company-sponsored or approved events.

Notwithstanding the foregoing exceptions, employees understand that alcohol must be consumed in moderation, and that employees are expected to act responsibly at all times and to refrain from becoming intoxicated or impaired.

AUTHORIZED DRUG USE

When an employee is taking prescription drugs or other substances that may alter the employee's ability to safely perform assigned job the employee has the responsibility to notify the appropriate supervisor/manager of any recommended work restrictions related to the employee's job duties. An employee need not report the medication used or the underlying medical condition to the employee's supervisor/manager. However, the Company may ask the employee to discuss this information to determine changes to work duties, leave, or other reasonable accommodation while using that medication.

The Company will offer reasonable accommodations to workers who use marijuana for medical purposes in accordance with state law where required by law to do so but does not permit the use or possession of marijuana or marijuana products while working (including meal and break periods) or while on Company or customer premises at any time. Employees are encouraged to approach Human Resources with questions if they are considering medical marijuana use.

EMPLOYEE ASSISTANCE PROGRAM

The Company has contracted with a third party to provide information, resources and referral services as well as Employee Assistance Program (EAP) professional counseling services. The EAP is available to all employees and is a free **confidential** service that may be accessed, either through self-referral or a referral source, 24 hours a day, seven days a week. You can receive assistance with a wide variety of problems or concerns, including substance abuse. The Company's EAP contact information is available on the Employee Website. Questions about the EAP may be directed to Human Resources.

SELF-DISCLOSURE AND REQUEST FOR ASSISTANCE

The Company supports employees who wish to voluntarily self-disclose a drug and/or alcohol issue and ask for assistance. Individuals who self-disclose will not be disciplined on that basis, but may be given alternative job duties, transferred, or placed on leave until the individual is able to work in a manner that complies with

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this policy. Leave is available to employees who disclose such issues/problems per Company leave and non-discrimination policies. Employees may not, however, escape discipline by seeking assistance after being selected for testing or failing to meet Company performance or behavior expectations.

WORKPLACE SEARCHES

The Company may conduct workplace searches and inspections of persons, property and vehicles on Company-owned or leased property and surrounding areas under its ownership or control, as set out in its Workplace Searches policy. Searches may be performed without prior notice and may include inspection of individuals and personal possessions brought on site. Refusing a search may lead to disciplinary action.

DRUG AND ALCOHOL TESTING - The Company may require drug and/or alcohol tests in the following circumstances:

Pre-Employment Tests - The Company conditions employment offers on an applicant's consent to taking a drug test and completing the test with a result satisfactory to the Company. If an applicant does not have a result satisfactory to the Company or refuses to undergo testing, the employment offer will be withdrawn.

Post-Accident Tests - Employees who cause or contributed to accidents occurring during work time, on Company property or involving Company owned or leased vehicles are subject to post-accident drug and/or alcohol testing.

Covered accidents include, but are not limited to, accidents that an employee appears to have caused or contributed to that involve:

- (1) personal injury to employees or others which necessitates first aid and/or medical attention beyond first aid; and/or,
- (2) damage to Company property.

Post-accident testing will take place as soon as possible following an accident. Employees are expected to make themselves available for post-accident testing. If circumstances require an employee to leave an accident scene, the employee must make a good faith effort to, when possible, notify the Company of the employee's location and, in consultation with the Company's Substance Abuse and Testing Policy Coordinator, Human Resources or the Safety Department, submit to post-accident testing. Employees should report accidents as soon as reasonably practicable after they occur. Tests will be commenced within 8 hours of an accident for alcohol testing and within 32 hours of an accident for drug testing. Under certain state laws, employees refusing to test or testing positive may be ineligible for workers' compensation and/or unemployment compensation benefits.

Random Tests

Employees may be subject to drug testing on a random selection basis. Random selection basis means a mechanism for selection of employees that results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected. Individuals subject to random testing will be

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so advised at the time they begin a position subject to random testing or when random testing is implemented for their position.

Reasonable Suspicion Tests

Employees will be asked to submit to a drug and/or alcohol test if reasonable suspicion exists indicating that the employee has violated this Policy. Reasonable suspicion means a basis for forming a belief based on specific facts and rational inferences drawn from those facts. Reasonable suspicion determinations will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the individual, or other credible information suggesting that the employee has violated this policy.

Return-to-Duty Tests

Employees who have violated this Policy whom the Company chooses to retain must take a return-to-duty drug and/or alcohol test and receive an acceptable result before an employee will be permitted to return to duty. In addition, the Company reserves the right to the fullest extent permitted under law to request or require a return to duty test in other circumstances as it deems appropriate and subject to law (e.g., following completion, in some circumstances, of a substance abuse counseling, treatment or rehabilitation program if an employee is in a safety sensitive position).

- (a) **Follow-Up Tests** - An employee who has been removed from the employee's job duties on the basis of a Policy violation and whom the Company chooses to retain will be subject to unannounced drug and/or alcohol testing under this Policy to determine whether the employee is under the influence of alcohol or drugs at work or while working. In addition, the Company reserves the right to the fullest extent permitted under law to request or require a follow-up testing in other circumstances as it deems appropriate (e.g., during and/or following completion of a substance abuse counseling, treatment or rehabilitation program if an employee is in a safety sensitive position). Follow-up testing may continue up to twenty-four (24) months from the return-to-work date.
- (b) **Plant, Department or Shift-Wide Wall-to-Wall Testing** - Where permitted by law, and at the Company's sole discretion, all employees working at a single company plant location, in a single department or on a single shift may be subject to unannounced or announced drug testing. Such wall-to-wall testing may occur in a variety of circumstances, including but not limited to reports or evidence of: (1) sale of illegal drugs at work; (2) evidence of attempts by multiple employees to adulterate, substitute or tamper with specimens provided for collection for testing under this Policy; (3) discovery of drug paraphernalia or drugs on Company premises or in Company vehicles, or (4) increased/increasing/higher positive test rates. Prior to conducting wall-to-wall testing at any level, plant management must receive written approval from BWC's corporate legal department.

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SUMMARY OF ALCOHOL TESTING PROCEDURES

- (c) Alcohol testing is done at locations determined by the Company in a private setting. The testing technician, who has been trained, will ask employees to verify their identity and employees must cooperate with that request.
- (d) In general, * a breath or saliva testing device approved by the federal government and calibrated according to manufacturer directions will be used for all alcohol tests. A screening test will be done first. If a breath-testing device is used, employees will be instructed to exhale forcefully into the mouthpiece of the screening device. If a saliva-testing device is used, a swab will be placed in the donor's mouth and saturated with saliva. After the saliva is collected, the swab will be inserted into the saliva-testing device. *Note: specimens other than breath will be utilized where required by law for alcohol testing.
- (e) If a breath screen test result is more 0.02, a confirmation breath test, using a federally approved evidential breath-testing device, will be performed after at least a 15-minute waiting period from the completion of the screening test. During that time, employees should not eat or drink anything.
- (f) For the confirmation test, the employee will have to exhale into the evidential breath-testing device until the technician tells the employee to stop. The test is positive if the confirmation test result is 0.02 or more.

SUMMARY OF DRUG TESTING PROCEDURES

- (g) Applicants and employees – also referred to as “donors” -- will be directed to provide a test specimen at a Company designated facility/location. Each donor must verify the donor's identity to the collector. In return, a donor may ask collection site personnel to disclose their identity.
- (h) The donor's specimen will be collected by a trained collection site person (the Collector). Donors should ensure that entries on any forms presented by the Collector are accurate.
- (i) The Collector may require donors to remove unnecessary outer garments that might conceal items used to tamper with the collection process.
- (j) For urine collections, donors will be given a collection container and allowed to provide a urine specimen in private. For oral fluids and other collections, the collection will take place in a reasonably private location with the collector and donor present.
- (k) The specimen will be inspected by the Collector for sufficiency. Urine specimens will be tested for temperature. If there is a reason to believe an altered or substituted specimen has been provided, the Company will be notified.
- (l) An initial screening test will be performed on the primary specimen. If the screening test is negative, the result will be reported as negative and the donor has passed the drug test. If the screening test

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is presumptively positive, a confirmation test will be performed on the donor's specimen by a certified laboratory using gas chromatography/mass spectrometry (GC/MS) or an equally sensitive process. A Medical Review Officer (MRO) will be retained to review and verify test results and individuals who have tested positive will be offered the opportunity to discuss, in confidence, any reason the test result should not be treated as positive. If the MRO believes there is a legitimate medical explanation for the positive result, the MRO will overturn the positive result and report a negative result to the Company.

An individual who believes that his or her drug test result is reported in error may ask for the remaining test specimen to be shipped to a different certified laboratory and re-tested at the individual's expense. If the specimen fails to reconfirm the presence of a prohibited drug in the specimen, the original test will be disregarded, the new test will become the test of record, and the Company will reimburse the individual for the cost of the re-test. A request for a retest will not delay the Company from taking adverse action pending the results of the re-test. Requests for retest must be made within 7 days of the date the individual is advised of the positive test result.

CONSEQUENCES FOR POLICY VIOLATIONS

Employees who engage in any of the conduct prohibited by this Policy are subject to discipline, up to and including termination of employment at the Company's sole discretion.

The Company reserves the right to request or require that an employee who has violated this Policy: (1) enter into a last chance, return-to-work or similar agreement, (2) submit to evaluation or assessment by a Substance Abuse Professional (SAP); (3) abide by the SAP's recommendations, including any recommended education, counseling, treatment or rehabilitation, (4) submit to return-to-duty and/or follow-up testing; and, (5) complete any prescribed or recommended aftercare, as a condition of continued employment as a condition of continued employment following a policy violation or where necessary to ensure the individual is safely able to perform essential job functions.

CONFIDENTIALITY AND PRIVACY

Medical information provided to the Company in the course of administering this policy will be treated as confidential and will be disclosed within the Company and its agents involved in administering this policy on a need-to-know basis. Information about an employee's medical condition or history obtained in connection with the administration of this policy will be kept in a medical file separate and apart from the employee's personnel file and will be released outside the Company only pursuant to the individual's written authorization or as otherwise required or permitted by applicable law. By way of example only, test results and other information obtained in the testing process may, subject to applicable law, be used and disclosed in: (1) litigation (e.g., arbitration, administrative hearings or judicial proceedings) if the information is relevant to the hearing or proceeding, (2) to any government agency to the extent required by law, rule or regulation or is compelled by judicial or administrative process and disclosure is not prohibited by law, and (3) to a substance abuse professional (SAP) or substance abuse or rehabilitation assessment/treatment facility or provider to whom the Company or an SAP has made a referral for the purpose of evaluation/assessment or treatment.

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QUESTIONS

If questions arise regarding this Policy, please direct them to the Company's VP, Human Resources at corporate headquarters at 832-699-4001.

RESERVATION OF RIGHTS

The Company reserves the sole right to interpret and administer this Policy, and at any time and at its sole discretion, amend, supplement, modify, revoke, rescind or change this Policy, in whole or in part. This Policy is not an express or implied contract of employment nor is it to be interpreted as such. Additionally, this Policy does not in any way affect or change the status of any employee employed at-will.

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**Acknowledgement of Receipt of Policy
and Consent to Testing**

I certify that I have received and understand the Company's Substance Abuse and Testing Policy. I agree to comply with the Policy and understand failure to comply is grounds for disciplinary action, up to and including termination.

I consent to submit to drug and/or alcohol testing as outlined in the Policy. I understand that such testing may include the use of on-site collections and/or screens and testing where lawful and as provided in the Policy. I consent to provide specimens at the assigned collection site(s) and, if applicable, on-site. I further consent to have specimens tested for drugs and/or alcohol at a certified, licensed or accredited laboratory.

I consent to the release of drug and/or alcohol screen/test results on tests administered under the Policy: (1) to the Company's Medical Review Officer (MRO), (2) to the Company's third-party administrator, (3) to and within the Company on a need-to-know basis, (4) to additional parties in accordance with my written authorization; (4) state unemployment or workers' compensation agencies and/or relevant government agency, or, (5) as otherwise required or permitted by applicable federal, state or local law or regulations or court decisions. I will be given an opportunity to discuss a positive drug test result with the MRO before the result is reported to the Company as a verified confirmed positive test result. In the event of a post-Event test, I understand and agree that the drug and/or alcohol test result(s) may also be provided to the Company's workers' compensation insurance carrier unless prohibited by law.

Print Applicant/Employee Name: _____ Date: _____

Applicant/Employee Signature: _____