



## 2.3 DRUG AND ALCOHOL POLICY

Originator:

Chris Grech

Approved By:

Mike Kelly

### 1. Purpose

The purpose of this section is to set forth in the SMS the Drug and Alcohol policy on board MBARI ships.

### 2. General

MBARI is committed to maintaining a safe and healthy workplace free from the influence of drugs and unauthorized use of alcohol. In addition, MBARI complies with the requirement of the Drug Free Workplace Act of 1988 as well as Special Drug Free Work Force rules established by the Department of Defense.

The passage of the Drug-Free Workplace Act of 1988 requires the Institution, as a federal contractor, to certify that it operates a drug-free working and learning environment. Failure to comply with the terms and conditions of the Act may result in the suspension or loss of federal funds or the debarment of the Institution from receipt of any federal funds.

### 3. Reference

MBARI Drug and Alcohol Policy statement is in the Personnel Manual. US Department of Transportation rule, 49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Program.

### 4. Policy

Employees are MBARI's most valuable resource and their health and safety therefore is a serious concern. MBARI will not tolerate any drug or alcohol use which imperils the health and well-being of its employees or threatens its business.

Individuals who use illegal drugs and abuse other controlled substances, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism, resulting in the potential for increased cost, delay and risk in the Institute's business. Furthermore, employees have the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs. Employees who abuse alcohol and drugs are a danger to themselves and to other employees. In addition, drug and alcohol abuse inflicts a terrible toll on the nation's productivity and the health and well being of American workers and their families. MBARI, therefore, is committed to maintaining a safe and healthy workplace free from the influence of alcohol and drugs. In addition, MBARI will vigorously comply with the requirements of the Drug-Free Workplace Act of 1988 as well as the Special Drug-Free Work Force rules promulgated by the United States Department of Defense.

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The use, possession, distribution, manufacture, dispensing, transferring, purchase, sale, or being under the influence of any controlled substance by any person while on Institute premises or while engaged in MBARI business is prohibited. Any other use of a controlled substance which causes or contributes to unacceptable job performance or unusual job behavior is also prohibited. Any employee who brings, possesses, manufactures, dispenses, is under the influence of, uses, transfers, purchases, sells, or attempts to sell on MBARI property or while on MBARI business, at any time, any form of narcotic, drug, or hallucinogen, is subject to immediate dismissal. Any other person violating this policy will be removed from MBARI premises. In appropriate cases, local law enforcement agencies will be advised of violations. Physician-prescribed medications are permitted, providing they do not adversely affect job performance or safety of the employee or others in the workplace. Employees are required to notify the Director of Human Resources if they are taking any medication which is likely to impair their performance.

In the event an MBARI employee or associate is convicted of any drug violation, that person must notify their supervisor or the Director of Human Resources within five working days of conviction. In turn, MBARI is required to report the violation to the appropriate federal grant funding agency within 10 days of the employee's conviction or MBARI's actual knowledge of the conviction.

"Controlled substances" include: opiates, including heroin; hallucinogens, including marijuana, mescaline and peyote; cocaine; PCP, any prescription drug, including amphetamines and barbiturates, which is not obtained and used under a lawfully issued prescription; and any other substance included in the Federal Controlled Substances Act, and its regulations.

According to USCG regulations, all marine crew members, and in some instances, scientific staff aboard a vessel may be subject to drug and alcohol testing in the following instances: (1) pre-employment testing, (2) post-serious marine incident testing, (3) marine casualty testing, (4) reasonable cause testing, and (5) random testing. Details regarding such testing are available in Human Resources.

### Alcohol

The unauthorized use, possession, distribution, purchase, or sale of alcohol by any person while on MBARI premises is prohibited. On occasion MBARI may authorize the serving of alcoholic beverages at receptions or other functions held on MBARI premises. Such authorization must be made by the President/CEO. In regard to these events, all employees are expected to follow the course of moderation.



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Any person under the influence of alcohol is prohibited from entering MBARI premises or engaging in MBARI business. Employees who violate this policy are subject to immediate dismissal. Any use of alcohol which causes or contributes to unacceptable job performance is also prohibited. Violation of this policy by an employee will be cause for disciplinary action, up to and including discharge. Any other person violating this policy will be removed from MBARI premises.

### Employee Assistance

Early recognition and treatment of drug or alcohol abuse is important for successful rehabilitation and for reduced personal, family and social disruption. MBARI encourages the earliest diagnosis and sound treatment for alcohol or drug abuse. The Institute will attempt to assist employees in overcoming drug or alcohol abuse. However, the decision to seek diagnosis and treatment is the responsibility of the employee.

The Institute provides employees with group medical and short-term disability plans to help pay for treatment of substance abuse. Sick leave, accrued vacation or leave without pay may be used for time spent in treatment. Employees who seek treatment for substance abuse problems before they result in performance problems will receive reasonable accommodation for their treatment program, but employees may not avoid discipline by seeking treatment after their substance abuse has resulted in impaired performance.

## **5.0 Drug Testing**

### **Background**

In 1988, federal regulations were issued through the United States Coast Guard, Department of Transportation, calling for drug and alcohol testing of marine crew members and others. The intent of the regulations is to improve safety by reducing the incidence of drug and alcohol abuse by personnel operating ships. The regulations apply to all Marine crew members on board Institute vessels and, in some circumstances, to all other embarked personnel on board our ships, including scientific staff. This Drug Testing Policy is intended to establish rules for implementing the regulations and to inform all embarked personnel on board MBARI ships about the requirements of the regulations.



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### 1. Testing

The testing mandated by the United States Coast Guard regulations covers the following specific circumstances:

- a) Pre-employment Testing
- b) Post-serious Marine Incident Testing
- c) Marine Casualty Testing
- d) Reasonable Cause Testing
- e) Periodic and/or Random Testing

### 2. Substances for Which Testing Will Occur

The USCG testing regulations require that testing adhere to DOT 49 Part 40, below is a partial list of substances to be tested for:

- a) Marijuana
- b) Cocaine
- c) Opioids
- d) Phencyclidine (PCP)
- e) Amphetamines
- f) Alcohol (serious marine incident; marine casualty; reasonable cause)

### 3. Circumstances

Definitions and details on each of the circumstances are noted below:

#### a) Pre-Employment Tests

All job offers for ship crew positions will be conditioned on the satisfactory results of a post-offer medical examination, and tests for illegal use of drugs. If the medical exam shows the employee has a disability, then MBARI will make an effort to reasonably accommodate the applicant. In the event MBARI and the individual cannot agree on an accommodation or there is no accommodation which would not present an undue hardship on MBARI, the hiring of the individual may not occur. An individual will not be hired if tested positive for use of illegal drugs. The above stated condition of employment will be stated in the prospective candidate's offer letter.



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### b) Serious Marine Incident

Any person on board an Institute vessel who is directly involved in a serious marine incident, as defined by the federal regulation 46 CFR 4.03-2, "Serious Marine Incident," is subject to an immediate test for drugs and alcohol. A person directly involved in a serious marine incident is any person whose order, action or failure to act is determined to be, or cannot be ruled out as, a causative factor in the events leading to or causing said incident. Examples of serious marine incidents, besides physical and environmental disasters, include (1) an injury to a person that requires professional medical treatment beyond first aid and which renders the individual unable to perform routine vessel duties, and (2) damage to property in excess of \$200,000.

The Ship's Master, as the Institute representative, is charged with the responsibility to determine if such an incident has occurred and which individuals are directly involved. Those so determined will be required to provide a urine specimen and a breath sample. Anyone refusing may be subject to suspension or termination. In addition, the United States Coast Guard may initiate license revocation procedures. The names of those individuals refusing to be tested will be placed in the Ship's log.

In the event that the Master may be determined to be directly involved in a Serious Marine Incident, the specimen collection and chain of custody procedure will be executed by another person so designated and trained for this purpose.

The procedures to follow in the event of positive test results or a refusal are outlined below in section #6. In addition, the United States Coast Guard will be provided the names of all personnel tested. After the test results are received, those results will also be provided to the United States Coast Guard.

**Maintenance of Testing Supplies:** The Ships Masters ensure for and maintain appropriate drug and alcohol testing supply kits on board the vessels. This includes managing the inventory and notifying the Director of Human Resources when additional drug and/or alcohol kits need to be ordered.



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### c) Marine Casualty

Federal regulations trigger alcohol testing obligations for any individual who (1) was a Marine Crew member, pilot, or on watch and was (2) directly involved in the occurrence of a marine casualty. Such individuals will also be subject to drug testing if the marine casualty is, or is likely to become, a serious marine incident. For purposes of this policy, a marine casualty includes any incident involving (1) an unintended grounding, or an unintended strike of a bridge; (2) an intended grounding, or an intended strike of a bridge, that creates a hazard to navigation, the environment, or the safety of the vessel; (3) a loss of main propulsion, primary steering, or any associated component or control system that reduces the maneuverability of the vessel; (4) an occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route; (5) a loss of life or an injury that requires medical treatment beyond first aid; or (6) an occurrence causing property damage in excess of \$75,000, including the cost of material and labor to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, dry-docking, or demurrage.

### d) Reasonable Cause

The criteria for determining reasonable cause are contained in 46 CFR 16.250 for drugs and in 33 CFR 95.035 for alcohol. These criteria require testing when there is a reasonable and articulable belief that the individual has used a dangerous drug or is intoxicated. This belief will be based on direct observation of specific, contemporaneous physical, behavioral, or performance indicators of probable use. The primary responsibility for this determination lies with the Ship's Master, as the Institute's management representative. Where possible, the concurrence of two (2) supervisors and/or superiors who were direct observers of the reasonable cause incident will be sought.

Reasonable cause testing may consist of drug and/or alcohol tests, as determined by the Master's assessment of the incident. All such cases will be entered into the Ship's log, along with refusals to comply with the testing, should that occur.

The individuals involved in the reasonable cause incident will, if practicable, be immediately removed from any watch or duties involving the navigation or operation of the ship. Persons whose testing results are negative may be

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returned to their duties if such action is appropriate in the judgment of the Master.

### e) Periodic and/or Random Testing

Periodic drug tests will be those performed in conjunction with the physical examinations required of marine crew members by the United States Coast Guard: for example, as part of the initial application and renewal process for a Merchant Mariner's Document or License. Periodic testing may also be an integral part of a rehabilitation program for any marine crew members testing positive for drugs. In addition, Coast Guard regulations (46 CFR Section 16.230) requires random testing of marine crew members.

Random testing will occur through a scientifically valid method. Each marine crew member will have an equal chance of being tested each time selections are made and a crew member's chance of selection will continue throughout their employment. Alternatively, random selection may be accomplished by periodically selecting one or more vessels and testing all marine crew members; under this method, each MBARI vessel will remain equally subject to selection.

### 5. Administration of Tests

Collection of samples for drug testing will be supervised by medical personnel, and will occur at an off-site location, except when not practicable following a marine casualty or serious marine incident. All drug tests will be performed by a laboratory that has been certified by the U.S. Department of Health and Human Services. Collection of samples and drug tests will be conducted according to applicable United States Coast Guard regulations.

Collection of the samples for breath alcohol tests will be conducted by personnel trained to conduct such tests. The tests will be conducted according to applicable Department of Transportation and United States Coast Guard regulations.

If a sample is confirmed positive for illegal drug or unauthorized alcohol use, it will be reviewed by a medical officer designated by the Institute. The medical review officer will report to the Director of Human Resources at the Institute regarding whether the confirmed test results were positive or negative.

Except as otherwise provided for by United States Coast Guard regulations, MBARI will not release individual test results or other personal information for anti-drug programs. Individual test results may be released if the individual tested signs a specific authorization for the release of the results to an identified person and an individual tested under this program may receive the results of the test.

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### 6. Disciplinary Action

If a Marine Crew member receives a positive drug test result or refuses to submit to requested drug testing, the Institute shall, as soon as is practicable, remove that crew member from active duty and place the crew member on involuntary, unpaid furlough or terminate their employment. However, the Institute may, in its discretion, continue in active duty any person whose performance is necessary for the preservation of life or property or the protection of the environment. The Institute may, in its discretion, treat a positive alcohol test result or a refusal to submit to alcohol testing in the same manner as a positive drug test result or a refusal to submit to a drug test.

If that same marine crewmember holds a license, certificate or registry, or merchant mariner's document, the Institute must also report any positive drug test result to the United States Coast Guard Officer in Charge, Marine Inspection. A crewmember in this status faces license and/or document revocation under United States Coast Guard procedures. Disciplinary action from the Institute is also appropriate.

If the individual affected does not hold a license, certificate of registry, or merchant mariner's document, there is no obligation to report the positive test results to the United States Coast Guard (except as part of a response to a request for records by the United States Coast Guard). The sole exception is in the event of a Serious Marine Incident. Employees who have positive test results are nevertheless subject to appropriate Institute disciplinary action.

Under these Federal regulations, the Institute must maintain all records of positive drug and alcohol tests for at least five years and must provide those records to the United States Coast Guard on request. Negative test results must also be maintained, but only for one year.

### 7. Eligibility for Treatment

Crewmembers may be eligible for substance abuse counseling and treatment, which may be obtained through the crewmembers' insurance benefits. All crewmembers and supervisory personnel will receive education and training on drug use as required by 46 C.F.R. section 16.401.



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8. Policy on Drug and Alcohol Consumption on board MBARI vessels. Consumption of alcohol is not permitted on board MBARI vessels. Additionally, under Chapter 33 of Title 46 United States Code, a crew member (including a licensed individual), pilot, or watch stander who is not a regular member of the crew:

- a) Shall not perform or attempt to perform any scheduled duties within four hours of consuming any alcohol;
- b) Shall not be intoxicated at any time;
- c) Shall not consume any intoxicant while on watch or duty; and
- d) May consume a legal non-prescription or prescription drug provided the drug does not cause the individual to be intoxicated.

Under 33 CFR, Part 95, an individual is intoxicated when one is operating a vessel other than a recreational vessel and has an alcohol concentration of .04 percent by weight or more in their blood. Non-crew members must also abide by this policy. Any violation will result in disciplinary action, not to exclude termination.