

Alcohol & Drug Policy & Procedures

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1. Purpose

1.1 The alcohol and drug policy is established

(a) to provide a safe workplace for all employees and those whose safety may be affected by the conduct of employees, and

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2. THE ALCOHOL AND DRUG POLICY IS IMPORTANT

2.1 The use of alcohol and drugs adversely affects the ability of a person to work in a safe manner. Employees at construction workplaces are often working independently or with equipment or material in an environment that poses a threat to the safety of themselves, the workforce, the workplace and the property at the workplace, if handled without proper care and attention. In setting the requirements in the Work Rule it is acknowledged that assessments of risks relating to work activities, equipment and processes may lead to a workplace adopting more rigorous requirements in relation to the risks faced in particular work. This Policy will remind employees of the risks associated with the use of alcohol and other drugs and provide understandable and predictable responses when an employee's conduct jeopardizes the safety of the workplace.

2.2 By pursuing the purposes of this alcohol and drug policy, the company promotes

(a) the safety and dignity of its employees,

(b) the welfare of its employees and their families,

(d) the best interests of the company, the owner, the construction industry and the public.

2.3 There are no other reasonable alternatives available to the company that impose a smaller burden on any rights an employee may have under Alberta's Human Rights, Citizenship and Multiculturalism Act and at the same time are equally as effective in promoting the purposes of this alcohol and drug policy.

3. ALCOHOL AND DRUG WORK RULE

3.1 An employee shall not

(a) use, possess or offer for sale alcohol and drugs or any product or device that may be used to attempt to tamper with any sample for a drug and alcohol test while on company property or at a company workplace,

(b) report to work or work

(i) with an alcohol level equal to or in excess of 0.040 grams per 210 litres of breath,

(ii) with a drug level for the drugs set out below equal to or in excess of the concentrations set out below:

or

- (iii) while unfit for work on account of the use of a prescription or non-prescription drug.
- (c) refuse to
 - (i) comply with a request made by a representative of the company under 4.3, or
 - (ii) comply with a request to submit to an alcohol and drug test made under 4.4, 4.5, 4.6 or 4.7, or

3.2 An employee complies with 3.1(a) or 3.1(b)(iii) of the alcohol and drug work rule if he or she is in possession while at a company workplace of a prescription drug prescribed for him or her or a non-prescription drug and

- (a) the employee is using the prescription or non-prescription drug for its intended purpose and in the manner directed by the employee’s physician or pharmacist or the manufacturer of the drug, and
- (b) the use of the prescription or non-prescription drug does not adversely affect the employee’s ability to safely perform his or her duties, and
- (c) the employee has notified his or her supervisor or manager before starting work of any potentially unsafe side effects associated with the use of the prescription or non-prescription drug.

3.3 The supervisor or manager who has received a notification under 3.2 may not disclose any information provided under 3.2 to any person other than a person who needs to know, to discharge a statutory or common-law obligation.

Drugs or classes of drugs	Screening concentration equal to or in excess of ng/mL	Confirmation concentration equal to or in excess of ng/mL
Marijuana metabolites	50	15
Cocaine metabolites	300	150
Opiate metabolites	2000	2000
Phencyclidine	25	25
Amphetamines	1000	500

4. IMPLEMENTATION OF THE ALCOHOL AND DRUG WORK RULE

4.1 Education

4.1.1 The company is committed to informing employees of the existence of this alcohol and drug policy and to taking such other steps as are reasonable to inform its employees of the safety risks associated with the use of alcohol and drugs and the assistance available under the employee assistance services program.

4.1.2 The likelihood that an employee will comply with the alcohol and drug work rule is increased if he or she knows the safety risks associated with the use of alcohol and drugs and the assistance available under the employee assistance services program.

4.2 Self-help

4.2.1 This policy encourages employees who believe that they may require the help provided by substance abuse experts (SAEs) and employee assistance services programs (EAPs) to voluntarily request that help. An employee requesting help will not be disciplined unless he or she:

- (a) has failed to comply with the alcohol and drug work rule,
- (b) has been requested to confirm compliance with the alcohol and drug work rule under 4.3,

- (c) has been requested to submit to an alcohol and drug test under 4.4, 4.6 or 4.7, or
- (d) has been involved in an incident referred to in 4.5.

4.2.2 An employee who believes that he or she may be unable to comply with the alcohol and drug work rule should seek help by:

- (a) contacting a person responsible for the administration of the employee assistance services program,
- (b) informing a family member or friend and asking for assistance in contacting a person responsible for the administration of the employee assistance services program, or
- (c) informing a co-worker, a supervisor, or a representative of the company, to which the employee may belong of his or her wish to contact a person responsible for the administration of the employee assistance services program.

4.2.3 In responding to an employee's request for help, a foreman, supervisor or manager must

- (a) inform the employee of the assistance available under the employee assistance services program,
- (b) encourage the employee to utilize the employee assistance services program which may assist the employee, and
- (c) inform the employee that if he or she fails to utilize the employee assistance services program the company may insist that the employee submit to any or all of the following:
 - (i) a medical assessment conducted by a physician,
 - (ii) an assessment conducted by a substance abuse expert,
 - (iii) and that his or her failure to do so may result in the termination of his or her employment.

4.2.4 An employee who receives assistance from the employee assistance services program on account of his or her use of alcohol and drugs must comply with the terms and conditions of any program established to help the employee as a condition of his or her continued employment.

4.2.5 An employee who is at work and enrolled in the employee assistance services program must comply with the alcohol and drug work rule.

4.3 Possession of alcohol and drugs

4.3.1 A representative of the company or the owner who has reasonable grounds to believe an employee may not be in compliance with 3.1(a) of the alcohol and drug work rule, must request

- (a) that employee to confirm that he or she is in compliance with 3.1(a) of the alcohol and drug work rule, or
- (b) the assistance of appropriate authorities to confirm that employee's compliance with 3.1(a) of the alcohol and drug work rule.

4.3.2 A representative of the company or the owner must provide to the employee the reason for the request under 4.3.1.

4.4 Observation of employee conduct

4.4.2 A supervisor or manager of an employee must provide to the employee the reason for the request under 4.4.1.

4.5 Incidents and near misses

4.5.1 A supervisor or manager of an employee must request an employee to submit to an alcohol and drug test if the supervisor or manager and the next level of management present at the company workplace, if any, have reasonable grounds to believe that an employee was involved in an incident or near miss.

4.5.2 A supervisor or manager of an employee must provide to the employee the reason for the request under 4.5.1.

4.5.3 A supervisor or manager must make a request under 4.5.1 immediately following an incident or near miss unless it is not practicable or reasonable to do so until a later time.

4.5.4 A supervisor or a manager of an employee need not request the employee to submit to an alcohol and drug test if the supervisor or manager and the next level of management present at the company workplace, if any, conclude that there is objective evidence to believe that the use of alcohol and drugs did not contribute to the cause of the incident or near miss.

4.6 Random testing

The Canadian Human Rights Act prohibits discrimination on the basis of disability and perceived disability. Disability includes those with a previous or existing dependence on alcohol or a drug(s). Perceived disability may include an employers perception that a person's use of alcohol or drugs make him or her unfit to work.

The Commission will accept complaints from employees and applicants for employment who believe they have been dismissed, disciplined, or treated negatively as a result of testing positive for on a drug or alcohol test. Workplace alcohol or drug testing policies that contain discriminatory elements may also be subject of complaints.

Because they cannot be established as bona fide occupational requirements, the following types of testing are not acceptable :

- *Pre-employment drug testing*
- *Pre-employment alcohol testing*
- *Random drug testing*
- *Random alcohol testing of employees in non-safety-sensitive positions.*

The following types of testing may be included in a workplace drug and alcohol testing program, but only if an employer can demonstrate that they are bona fide occupational requirements:

- **Random alcohol testing of employees in safety sensitive positions (see below ***).** Alcohol testing has been found to be a reasonable requirement because alcohol testing can indicate actual impairment or ability to perform or fulfill essential duties or requirements of the job. Random drug testing is prohibited because, given its technical limitations, drug testing can only detect the presence of drugs and not if or when an employee may have been impaired by drug use.

***** A safety sensitive job is one in which incapacity due to drug or alcohol impairment could result in direct or significant risk of injury to the employee, others, or the environment.**

Whether a job can be categorized as safety sensitive must be considered in the context of the industry, the particular workplace, and an employees direct involvement in a high risk operation. Any definition must take into account the role of properly trained supervisors and the checks and balances present in the workplace.

- Drug or Alcohol testing for "reasonable cause" or "post-accident", e.g. Where there are reasonable grounds to believe there is an underlying problem of substance abuse or where an accident has occurred due to impairment from drugs or alcohol, provided that testing is a part of a broader program of medical assessment, monitoring, and support.
- Periodic or random testing following disclosure of a current drug or alcohol dependency or abuse problem may be acceptable if tailored to individual circumstances and as a broader program of monitoring and support. Usually, a designated rehabilitation provider will determine whether follow up testing is a necessary for a particular individual.
- Mandatory disclosure of present or past drug or alcohol dependency or abuse may be permissible for employees holding safety sensitive positions, within certain limits, and in concert with accommodation measures. Generally, employees not in safety sensitive positions, should not be required to disclose past alcohol or drug problems.

In the limited circumstance where testing is justified, employees who test positive must be accommodated to the point of undue hardship. **The Canadian Human Rights Act** requires individualized or personalized accommodation measures. Policies that result in the employees automatic loss of employment, reassignment, or that impose inflexible reinstatement conditions without regard for personal circumstances are unlikely to meet this requirement. Accommodation should include the necessary support to permit the employee to undergo treatment or a rehabilitation program and consideration of sanctions less severe than dismissal.

The employer will be relieved of the duty to accommodate the individual needs of the alcohol or drug dependent employee only if the employer can show that :

- the cost of accommodation would alter the nature or affect the viability of the enterprise, OR
- *notwithstanding the accommodation efforts, health or safety risks to workers or members of the public are so serious that they outweigh the benefits of providing individualized accommodation or consideration to a worker with an addiction or dependency problem.*

The Commission supports the use of methods other than the drug and alcohol testing for dealing with employee impairment. Awareness, education, rehabilitation, and effective interventions such as enhanced supervision and peer monitoring are the most effective ways of ensuring that performance issues associated with alcohol and drug use are detected and resolved

4.6.2 Where an owner directly or by contract requires random alcohol and drug testing, such a random testing program must be applicable to all companies and employees at the work site.

4.7 Site access testing

When an owner directly or by contract requires site access testing, an employer may require alcohol and drug testing under 4.8 of any employee as a condition of access to the owner's property.

5. CONSEQUENCES FOR FAILURE TO COMPLY WITH THE ALCOHOL AND DRUG WORK RULE

5.1 Company responses to violations

The company may discipline, or terminate for cause, the employment of an employee who fails to comply with the alcohol and drug work rule. The appropriate consequence depends on the facts of the case, including the nature of violation, the existence of prior violations, the response to prior corrective programs and the seriousness of the violation.

5.2 Violation of 3.1(b) of the alcohol and drug work rule

5.2.1 Prior to the company making a final decision with regard to disciplining or terminating the employment of an employee, who has failed to comply with 3.1(b) of the alcohol and drug work rule, the company shall direct the employee to and the employee shall meet with a substance abuse expert. The substance abuse expert shall make an initial assessment of the employee and make appropriate recommendations. The employee shall, through the substance abuse expert, provide to the company a confidential report of his or her initial assessment and recommendations. The company then shall make the final decision under 5.1. The initial assessment is to be completed as soon as possible, and the report shall be delivered to the company within two days of completion. Failure by the employee to attend the assessment or follow the course of corrective or rehabilitation action shall be cause for termination of the employee. During the period of assessment and corrective rehabilitative programs recommended by the substance abuse expert the employee shall be deemed to be suspended from his or her employment without pay.

5.2.2 In addition to disciplining or terminating for cause the employment of an employee who fails to comply with 3.1(b) of the alcohol and drug work rule, the company may give written notice to that person that the person will not be re-employed again by the company unless the person provides the company with the following:

(a) a certificate issued

(i) by the rehabilitation program service provider certifying that the person who was terminated has successfully completed its rehabilitation program and continues to comply with all the requirements of the rehabilitation program, or

(ii) by a licensed physician with knowledge of substance abuse disorders certifying that the person who was terminated is able to safely perform the duties he or she will be required to perform if employed by the company, and

(b) a statement signed by the person labourer provider, acknowledging that the person agrees to any conditions imposed as part of a corrective rehabilitative program and such other reasonable conditions set by the employer. The employer may terminate the employment of the employee who fails to comply with the conditions set out in such statement.

5.3 Violation of 3.1 (a), (c) or (d) of the alcohol and drug work rule

If a company decides to discipline or terminate for cause the employment of an employee who fails to comply with 3.1(a) or (c) or (d) of the alcohol and drug work rule, the company shall refer such employee to a substance abuse expert.

5.4 Owner responses to violations

5.4.1 The owner of a site where a person was working when he or she failed to comply with the alcohol and drug work rule may give the person who failed to comply with the alcohol and drug work rule written notice that he or she shall not enter the owner's site.

5.4.2 The owner of a site where a person was working when he or she failed to comply with the alcohol and drug work rule may give that person who has been denied permission to enter its site under 5.4.1 written notice that the person may enter the owner's site if

(a) a company engaged in work at the owner's site, or

(c) a company engaged in work at the owner's site provides the owner with a written statement by the person who has been denied permission to enter the owner's work site under 5.4.1 acknowledging that that person agrees to reasonable conditions imposed by the owner or the contractor or the bargaining agent or labour provider or a part of a corrective or rehabilitative program.

5.4.3 The owner may withdraw permission given under 5.4.2 if the person given permission to enter the owner's work site under 5.4.2 fails to comply with the alcohol and drug work rule or any condition imposed under 5.4.2.

5.4.4 The owner is not obliged to give a person who has been denied permission to enter the owner's site under 5.4.3 another opportunity to work on the owner's site.

6. DEFINITIONS

6.1 In this alcohol and drug policy, the following definitions apply:

Alcohol:	Any substance that may be consumed and that has an alcoholic content in excess of 0.5 per cent by volume.
Alcohol and drugs:	Alcohol or drugs or both.
Alcohol and drug work rule:	The alcohol and drug work rule set out in 3.1 of this alcohol and drug policy.
Company:	A corporation, partnership, association, joint venture, trust or organizational group of persons whether incorporated or not.
Company workplace:	Includes all real or personal property, facilities, land, buildings, equipment, containers, vehicles, vessels, boats and aircraft whether owned, leased or used by the company and wherever it may be located.
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.
Drugs:	Includes any drug, substance, chemical or agent the use or possession of which is unlawful in Canada or requires a personal prescription from a licensed treating physician, any non-prescription medication lawfully sold in Canada and drug paraphernalia.
Employee:	Any person engaged in work on a work site where this policy applies.
Employee assistance services	Services that are designed to help employees who are experiencing personal problems such as alcohol and drug abuse.
Employer:	A person who controls and directs the activities of an employee under an express or implied contract of employment.
Incident:	An occurrence, circumstance or condition that caused or had the potential to cause damage to person, property, reputation, security or the environment.
Manager:	Includes team leaders and other persons in authority.
Medical review officer (MRO):	A licensed physician with knowledge of substance abuse disorders and the ability to evaluate an employee's positive test results who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Negative test result:	A report from the medical review officer that the employee who provided a specimen for alcohol and drug testing did not have an alcohol and drug concentration level equal to or in excess of that set out in 3.1(b).
Owner:	The person in legal possession of a site.
Positive test result:	A report from the medical review officer that the employee who provided a specimen for alcohol and drug testing did have an alcohol or drug concentration level equal to or in excess of that set out in 3.1(b).
Reasonable grounds:	Includes information established by the direct observation of the employee's conduct or other indicators, such as the physical appearance of the employee, the smell associated with the use of alcohol or drugs on his or her person or in the vicinity of his or her person, his or her attendance record, circumstances surrounding an incident or near miss and the presence of alcohol, drugs or drug paraphernalia in the vicinity of the employee or the area where the employee worked.
Rehabilitation program:	A program tailored to the needs of an individual which may include education, counselling and residential care offered to assist a person to comply with the alcohol and drug work rule.
Substance abuse expert (SAE):	A licensed physician; a licensed or certified social worker; a licensed or certified psychologist; a licensed or certified employee assistance expert; or an alcohol and drug abuse counsellor. He or she has received training specific to the SAE roles and responsibilities, has knowledge of and clinical experience in the diagnosis and treatment of substance abuse-related disorders, and has an understanding of the safety implications of substance use and abuse.
Supervisor:	The person who directs the work of others and may, depending on the nature of the company's structure, include the foreman, general foreman, supervisor, superintendent and team leader.
Tamper:	To alter, meddle, interfere or change.
Work:	Includes training and any other breaks from work while at a company workplace.
Work site:	A place at which a person performs work for an owner or employer.