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# **SAMPLE DRUG AND ALCOHOL PLAN**

## **SECTION I - INTRODUCTION AND GENERAL INFORMATION**

### **A. Drug and Alcohol Prohibition Policy**

#### **1. Policy:**

<<EMPLOYER'S NAME HERE>> has a long standing commitment to maintain the highest standards possible for the health and safety of its employees, clients, and the public at large. The use of drugs and/or alcohol during or prior to work time, is contrary to these high standards and will not be tolerated.

#### **2. Purpose:**

The purpose of this Drug and Alcohol Plan is to maintain the highest safety, health, and work performance standards possible, and to reduce work-related accidents, injuries, and damage which may be caused by drug or alcohol use. This policy is also intended to ensure the maintenance of productivity, the quality of products and services, and the security of property.

#### **3. Prohibited Conduct:**

The use, possession, solicitation for, sale of narcotics or other illegal drug, alcohol or prescription medication without a valid prescription, on the premises of <<EMPLOYER'S NAME HERE>>, the premises of our customers, or while performing an assignment for the company.

Being impaired or under the influence of legal or illegal drugs or alcohol away from the premises of <<EMPLOYER'S NAME HERE>> or customer premises, if such impairment could have adverse effects on the employee's work performance, the safety of the employee or of others, or put at risk the reputation of the company.

Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from the premises of <<EMPLOYER'S NAME HERE>> or customer premises, if such activity or involvement could have adverse effects on the employee's work performance, the safety of the employee or of others, or puts at risk the reputation of <<EMPLOYER'S NAME HERE>>.

The presence of any detectable amount of prohibited substances in the employee's system while at work, while on the premises of <<EMPLOYER'S NAME HERE>> or the premises of the customers of the company, or while on assignment for the company.

Prohibited substances include illegal drugs, alcohol, or prescription drugs not taken in accordance with a legally obtained prescription given the employee, or a legally obtained prescription or over the counter medication that bears a warning that use of the prescription or over the counter medication may cause drowsiness, dizziness or excitability.

B. Effective Date of Policy

1. This revised policy will become effective April 1, 2007.
2. Prospective and existing employees shall receive a copy of this plan and sign that they understand the policies in the Non-DOT Drug and Alcohol Plan. Copies of the Drug and Alcohol Plan are on file in the Administrative Offices and are available upon request.

C. Acceptance of Policy

1. Compliance with this policy is a condition of employment.
2. Acceptance of the terms of this policy shall not be construed to be a contract, written or implied, for long term employment.

D. Applicability

1. Individuals Subject to Drug and Alcohol Policy: Any prospective employee or employee of <<EMPLOYER'S NAME HERE>>. **This includes all employees of the company covered under the Wyoming Workers' Compensation Division.**

E. Circumstances for Testing

<<EMPLOYER'S NAME HERE>> will test employees for drugs and/or alcohol under the following circumstances:

1. Pre Employment Testing

All job applicants will be required to submit to, and pass, a Pre-Employment drug test. Any applicant refusing to consent to testing will be denied employment.

2. Post Accident Testing

a. Persons Subject to Post-Accident Testing.

Employees whom <<EMPLOYER'S NAME HERE>> reasonably believes may have contributed to an accident/incident in the workplace or during work time may be required to undergo drug and/or alcohol impairment testing. Drug testing will be conducted within 8 hours of the accident, but no later than 32 hours after the accident. Alcohol testing will be performed within two hours of the accident, and no longer than 8 hours after the accident.

An "Accident" is defined as an unplanned, undesired event, not necessarily resulting in injury, but damaging to property and/or interrupting the activity in process.

b. Obligations of Employee Subject to Post-Accident Testing.

- 1) An employee who is subject to post-accident testing may not consume alcohol for 8 hours after the accident, or until he/she has taken an alcohol test, whichever occurs first.
- 2) An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with the testing or the results of testing.

3. Random Testing.

**All** employees shall be subject on an unannounced and random basis to drug and alcohol testing. Random drug testing will be conducted at a selection rate determined by the employer, with a **minimum rate of 20%** of the employers annual average number of employees selected for drug testing. Random testing selections will be spread reasonably over a 12 month period.

**In addition:**

- a. Random tests will only be administered just before, during, or just after an employee's work time.
- b. Employees must remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
- c. Employees shall be selected for testing by using a computer-based random number generator.
- d. No advance warning will be given to employees regarding the dates and times of random testing.

**4. Reasonable Cause/Suspicion Testing**

Any employee whom <<EMPLOYER'S NAME HERE>> reasonably suspects may be affected by the use of drugs or alcohol which may adversely affect job performance, safety or the work environment will be required to submit to a drug and/or alcohol test. This includes instances when an employee demonstrates behavior that leads to the suspicion that he/she has used drugs or alcohol *prior* to work time.

- a. A trained supervisor will make the decision whether there is reasonable suspicion to believe an employee is impaired by or under the influence of a drug or alcohol while on duty in violation of this policy.

In making a determination of reasonable cause, the factors to be considered include, but are not limited to the following:

- 1) Adequately documented pattern of unsatisfactory work performance, for which no apparent non-impairment related reason exists, or a change in an employee's prior pattern of work performance, especially when there is some evidence of drug related behavior on or off the work site.
- 2) Physical signs and symptoms consistent with substance abuse.
- 3) Evidence of illegal substance use, possession, sale, or delivery while on duty.

**b. Events After Determination Is Made**

When a determination is made that reasonable suspicion exists that an employee may be under the influence of drugs or alcohol in violation of this policy, the employee shall be driven by a supervisor to the collection site for testing. The employee will be relieved of his/her duties pending the result of the substance abuse testing.

**5. Additional Circumstances for Testing:**

In addition to the aforementioned circumstances for testing, <<EMPLOYER'S NAME HERE>> may request that employees submit to testing for any reason, with or without cause, any time the company deems that testing is appropriate. Insuring that the workforce is free from the influence of drugs and alcohol shall be reason enough to request occasional, intermittent testing of one or more employees or entire crew "sweep" testing in which the entire crew would be tested.

**F. Refusal to Submit to Testing and Use of Adulterants**

1. A refusal to submit to testing will be treated as if it were a positive test. Any employee who refuses to submit to testing for any reason will be terminated.
2. A specimen containing an adulterant, a substance used to hinder the detection of a drug, will be treated the same as a positive test. Tampering with a specimen or substituting another specimen for one's own are acts also

considered refusals to submit to testing. An employee who is found to have adulterated, tampered with or substituted another sample for their sample will be terminated.

G. **Disciplinary Actions for Violations of Drug and Alcohol Prohibitions**

1. A Refusal to take a drug or alcohol test, the failure to pass a drug or alcohol test or a violation of any other drug or alcohol prohibition set forth in this Drug and Alcohol Plan shall result in the immediate dismissal of the employee and failure to hire a prospective employee.

**SECTION II - SAMPLE COLLECTION AND TESTING PROCEDURES**

A. Collection of Samples

1. Drug testing under this policy will be conducted by approved means to include urinalysis, saliva and /or hair follicle tests. Pre-Employment testing may be conducted using one or more of these approved methods.
2. **Drug testing for Random, Post-Accident and Reasonable Suspicion purposes will require a urinalysis following procedures set forth in Part 40 of CFR 49.**

Note: Procedures set forth in Part 40 of CFR 49 require that a split specimen urine collection be sent to the Laboratory for testing following Department of Transportation Procedures for specimen collection. The Company may request that alternative forms of testing (urine express, saliva and/ or hair follicle) be conducted in addition to the split specimen collection, provided that the additional and alternative methods for testing do not interfere with or take the place of the required specimen collection performed under Part 40 of CFR 49.

3. Evidential breath testing devices or a Q.E.D. saliva test may be used when measuring blood alcohol content in all circumstances for testing.
4. The collection site shall have all necessary trained personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of specimens to a certified drug testing laboratory designated by <<EMPLOYER'S NAME HERE>>.
5. Drug and alcohol tests will be scheduled during, immediately before, or immediately after the employee's regular work period or work time. Testing under this policy is considered work time and will be compensated at the employee's normal rate of pay.

B. Testing Procedures

1. <<EMPLOYER'S NAME HERE>> shall use a drug-testing laboratory approved or certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) to confirm all initial non-negative express drug tests.
2. Positive drug tests will be confirmed by gas chromatography mass spectrometry. The company will not rely on an initial positive drug test unless the confirming drug test results have been reviewed by a licensed Medical Review Officer.
3. Alcohol testing will be performed by a Breath Alcohol Technician (BAT) or Saliva Test Technician (STT). If the result of an alcohol screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. The confirmation test will be conducted no sooner than 15 minutes, but not more than 30 minutes after the screening test. The results of these tests will be reported directly to <<EMPLOYER'S NAME HERE>>.

### C. Review of Drug Test Results

#### 1. Medical Review Officer

<<EMPLOYER'S NAME HERE>> shall contract the services of a Medical Review Officer (MRO). The MRO shall review all confirmed positive drug test results.

#### 2. Reporting and Review of Results

- a. The MRO shall review confirmed positive test results. The MRO shall first attempt to contact the employee within 48 hours of receiving the results from the laboratory to offer the employee an opportunity to discuss the test results.
- b. This review shall be performed by the MRO prior to the transmission of results to <<EMPLOYER'S NAME HERE>>.
- c. An employee who receives a positive confirmed test result may contest or explain the result to <<EMPLOYER'S NAME HERE>> within five (5) working days after written notification of the test result.

#### 3. Prescription Drug Use

a. The use of prescription drugs and/or over the counter medications must be reported to the company if such use has the ability to impair the safe performance of job duties. In some circumstances, a Physicians' determination that using the drug or medication in question should not impair the ability of the employee to perform his/her job function may be necessary.

If the prescription drug use has the ability to cause production or safety problems, a supervisor may grant the employee sick leave, if available, or temporarily assign the worker different duties.

b. Use of a prescription or legal drug that results in a positive drug test will be subject to disciplinary action when:

- 1) The employee failed to notify the employee's supervisor, before beginning work, that the employee was taking medications or drugs which might interfere with the safe and/or effective performance of duties;
- 2) Verification of valid current prescription or legal use of such drug is not provided upon request by the next scheduled work day; or
- 3) Misuse of the prescription or recommended drug has been established by the MRO.

#### 4. Results Consistent with Legal Drug Use

- a. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO may report the test result to <<EMPLOYER'S NAME HERE>> as negative.

### **SECTION III - ON-CALL EMPLOYEES**

#### A. General:

Employees who are called to work must be fit for duty upon arrival. If an employee is called to perform a job duty for the company on his/her off time, it is the responsibility of the employee to report to the supervisor any possible impairment due to drug or alcohol use before reporting for duty. Once an employee reports for duty and is perceived to be under the influence, the employee will be subject to the provisions of Reasonable Suspicion testing.

## SECTION IV - FIT FOR DUTY

### A. General:

1. All employees performing job functions on behalf of the company whether on or off company premises are required to be fit for duty. Several conditions may render the employee un-fit to work. The company will consider 1) a medical concern, 2) a mental or emotional problem, 3) fatigue, 4) a reaction to prescription medication and 5) substance abuse when determining whether the employee is able to perform job duties.

## SECTION V - EMPLOYEE ASSISTANCE PROGRAM (EAP)

### A. Employee Training

The Employee Assistance Program, for the purposes of this plan, will provide one hour per year of education and training on drug abuse and alcohol misuse to all employees. The education shall include, but not be limited to:

1. Informational material distributed to employees.
2. Distribution of <<EMPLOYER'S NAME HERE>> Non-DOT Drug and Alcohol Plan regarding the use of prohibited drugs and alcohol to all employees.
3. Audio and video presentations.

### B. Supervisor Training

Supervisory personnel will receive (2) two hours of training per year regarding the Non-DOT Drug and Alcohol Plan. The training shall include at least 60 minutes of training on the signs and effects of controlled substance use, and at least 60 minutes of training on the signs and effects of alcohol misuse. This training shall be for all supervisors who may need to make a determination whether an employee will be drug and alcohol tested for reasonable suspicion.

## SECTION VI - CONFIDENTIALITY OF RESULTS

### A. General

1. All records relating to drug and alcohol testing will be maintained in a confidential file in a secure location with controlled access, separate from personnel files.
2. A communication received by <<EMPLOYER'S NAME HERE>> relevant to an employees' drug and/or alcohol test and received through the <<EMPLOYER'S NAME HERE>> testing program is confidential and privileged, and will not be disclosed by <<EMPLOYER'S NAME HERE>> except:
  - a. To the tested employee, prospective employer or another person designated in writing by the employee or prospective employee;
  - b. An individual designated by an employer to receive and evaluate test results or hear the the explanation from the employee or prospective employee;
  - c. As ordered by a court government agency; or
  - d. In any proceeding initiated by or on behalf of the individual arising from a positive test.

## **SECTION VII - RIGHT TO SEARCH**

Although every effort will be made to respect the privacy of our employees, <<EMPLOYER'S NAME HERE>> reserves the right to conduct unannounced searches for illicit drugs and/or alcohol on <<EMPLOYER'S NAME HERE>> premises, in company vehicles, facilities, equipment and on-site locations. Employees are expected to cooperate in the conducting of searches.

**A search of an employees' personal property will be conducted only when cause exists to suspect that the employee is in violation of this policy.**

Decisions to search company owned equipment and workspace does not have to based on any cause to suspect a violation of the policy.

An employees' consent to search is a required condition of employment. A refusal to consent will result in disciplinary action up to and including termination of employment.

## **SECTION VIII - EMPLOYER RESPONSIBILITIES**

### **A. General**

1. All vacancy positions advertised by the company must include a statement that informs a prospective applicant that the employer implements a drug testing program.
2. If drug testing has not previously been a part of the employers' Substance Abuse Program, the employer agrees to give existing employees 60 days after notice of the testing requirement before implementing drug testing.
3. The employer will post a notice that Substance Abuse Testing is a required condition of employment in the employee's work area.
4. The employer shall post a notice that the employers' Substance Abuse Policy and Employee Assistance Plan shall be made available to the employee as soon as is reasonably possible after request. The Policy and EAP will be on file in the office of the Human Resource Manager or Designated Employer Representative.

## **SECTION IX - EMPLOYEE REPORTING REQUIREMENTS**

**All employees are required to report to management within 2 days any drug or alcohol conviction.**

## **SECTION X - AT-WILL EMPLOYMENT**

Although acceptance of the terms of this Policy and Procedure is a condition of employment, it does not affect the employee's status as an "at-will" employee. The employee remains free to resign his/her employment at any time for any or no reason, without notice. Similarly, the company reserves the right to terminate any employee's employment, for any or no reason, without notice. Nothing in this policy statement is meant to infer a contract, written or implied, for long term employment.

## **SECTION XI - COMPLIANCE WITH APPLICABLE LAWS**

The company reserves the right to interpret, modify or revise this policy in whole or in part without notice. The company will follow requirements of applicable law and the terms of this policy, provided that the policy is consistent with applicable law.

## SECTION XII - DEFINITIONS

**Accident** is defined as an unplanned, undesired event, not necessarily resulting in injury, but damaging to property and/or interrupting the activity in process.

**Adulteration of** a specimen means adding something to or somehow changing the composition of the urine/breath/saliva sample. Substituting or tampering with a specimen is included in the category of adulteration, and are all considered Refusals to Submit to testing.

**Alcohol** means ethanol, isopropanol, or methanol.

**Alcohol concentration** means the alcohol in a volume of breath expressed in terms of grams of alcohol –per 210 liters of breath-as indicated by an evidential breath test.

**Alcohol Use** means the consumption of any beverage or mixture, including any medication or mouthwash containing alcohol.

**Breath Alcohol Technician (BAT)** means an individual who operates an EBT and instructs and assists individuals in the alcohol testing process.

**Collection Site Person** is an individual authorized by <<EMPLOYER’S NAME HERE>> to collect samples in accordance with this policy and trained in procedures for such collections. <<EMPLOYER’S NAME HERE>> has chosen to follow the highest industry standards for work place collection, testing and reporting of test results; therefore, <<EMPLOYER’S NAME HERE>> procedures will attempt to follow the federal drug testing procedures.

**Drug(s)** means a substance considered unlawful under AS 11.71 or under federal law, or the metabolite of the substance.

**Drug Testing** means testing for evidence of the use of a drug.

**Evidential Breath Testing Device (EBT)** is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, and is placed on NHTSA’s “Conforming Products List” (CPL) of evidential breath measurement devices.

**Employee Assistance Program (EAP)**, for the purpose of this plan, means, a program that includes drug and alcohol training and referrals for treatment.

**Failing a Drug Test** shall mean the test results show positive evidence of the presence of a drug or drug metabolite in an employee’s system in amounts that exceed cutoff levels established by the Department of Transportation for workplace testing programs.

**Fit for Duty-** is the determination that the employee is able to safely perform his/her job functions.

**Medical Review Officer (MRO)** is the licensed physician or doctor of osteopathy who is responsible for reviewing positive laboratory results generated by <<EMPLOYER’S NAME HERE>> testing program.

**On-Site Test** refers to a urine or saliva test in which the results are available immediately. All non-negative on-site drug tests will be confirmed by a certifying laboratory.

**Prospective Employee** means a person who has made application to <<EMPLOYER’S NAME HERE>>, whether oral or written, to become an employee.

**Q.E.D.** refers to a saliva alcohol test, in which the results are available immediately. A positive Q.E.D. alcohol test will be confirmed if possible using a certified breath alcohol testing device. A second Q.E.D. test may also be performed to confirm the first Q.E.D. testing device.

**Random** means a scientifically valid method that ensures that all covered employees have an equal chance of being selected.

**Reasonable Cause** testing means a drug and/or alcohol test that is administered whenever a manager or supervisor has reasonable cause to believe that an employee is using drugs and/or alcohol. Determinations will be based on specific, contemporaneous, articulable observations concerning the employee, including but not limited to, the employee's appearance, behavior, speech, or body odors.

**Rapid Test** means a test designed to provide an instant screened test result.

**Refusal to submit means** failure to cooperate and provide a drug or alcohol sample, after receiving notice of the test in accordance with <<EMPLOYER'S NAME HERE>> Non-DOT Drug and Alcohol Plan. A refusal will be treated the same as a positive test result. A refusal to test for alcohol occurs when a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of the <<EMPLOYER'S NAME HERE>> Non-DOT Drug and Alcohol Plan, or engages in conduct that clearly obstructs the testing process. Adulterating, substituting, or tampering with a specimen are also considered Refusals to Submit.

**Sample or Specimen** means urine, saliva, hair or breath from the person being tested.

**Split Specimen** means the dividing of the urine specimen into two sample/specimen containers for the purpose of offering the employee the opportunity to have the 2<sup>nd</sup> specimen container tested at a different certified laboratory in the case of the primary specimen testing positive for drugs.

**Substance Abuse Professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor ("Certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse") with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.

**SECTION XIII - DRUG AND ALCOHOL PERSONNEL AND SERVICES**

**1. DRUG PROGRAM MANAGER (DPM)**

**2. MEDICAL REVIEW OFFICER (MRO)**

**3. SAMHSA CERTIFIED LABORATORY**

**4. EMPLOYEE ASSISTANCE PROGRAM MANAGER**

**5. CONSORTIUM/THIRD PARTY ADMINISTRATOR**

## B. Checklist

### i) Written policy which shall include all of the following:

- \_\_\_\_\_ 1. A statement providing for inclusion of all Workers' Compensation covered employees in the substance abuse testing program. **Pg. 3, SECTION I - D**
- \_\_\_\_\_ 2. A statement of required types of substance abuse testing. **Pg. 3, SECTION I - E**
- \_\_\_\_\_ 3. A statement of actions the employer may take against an employee or job applicant on the basis of a positive confirmed test result. **Pg. 5, SECTION I - G**
- \_\_\_\_\_ 4. A statement of consequences of an employee's or job applicant's refusal to submit to a drug test. **Pg. 5, SECTION I - F**
- \_\_\_\_\_ 5. A general confidentiality statement. **Pg. 7, SECTION V**
- \_\_\_\_\_ 6. A statement-advising employee who receives a positive confirmed test result that he or she may contest or explain the result to the employer within five (5) working days after written notification of the test result. **Pg. 6, SECTION II - C**
- \_\_\_\_\_ 7. A statement informing an employee or job applicant of the federal Drug-Free Workplace Act, if applicable. **NOT LISTED**
- \_\_\_\_\_ 8. A statement affording provision of 60 days notice prior to implementation of substance abuse testing. **Pg. 8, SECTION VIII – A, 2**
- \_\_\_\_\_ 9. A statement that substance abuse testing is required to be on vacancy announcements for those positions which require testing. **Pg. 8, SECTION VIII – A. 1**
- \_\_\_\_\_ 10. A statement that notification of substance abuse testing is posted in an appropriate and conspicuous location on employer's premises. **Pg. 8, SECTION VIII – A, 3**
- \_\_\_\_\_ 11. A statement informing employees and job applicants that copies of policy are available in the employer's personnel office or other suitable location. **Pg. 8, SECTION VIII – A, 4**

### ii) Provisions for substance abuse testing, which shall include all of the following:

- \_\_\_\_\_ 1. Pre-employment, random, reasonable suspicion and post-accident testing. **Pg. 2-5, SECTION - I**
- \_\_\_\_\_ 2. Drug and alcohol testing protocols as specified in Chapter 10, Section 2, which shall apply to all random, reasonable suspicion and post-accident testing. **Pg. 5, SECTION II**
- \_\_\_\_\_ 3. To the extent permitted by law, random testing shall be conducted, at a minimum, on 20% of the average staff on an annualized basis. **Pg. 3-5, SECTION - I, 3**

**iii) Resources available for employee assistance.**

- \_\_\_\_\_ 1. A statement-advising employee of an Employee Assistance Program (EAP) or a statement-advising employee of employer's resource file of assistance programs and other persons, entities, or organizations designed to assist employees with personal or behavior problems. **Pg. 8, SECTION VIII**

**iv) Employee education.**

- \_\_\_\_\_ 1. The employer shall provide at least 1 hour of employee substance abuse education training per year. Employers shall retain records, to include attendee's signatures, dates and training topics, to document employee participation in education. **Pg. 7, SECTION V**

**v) Supervisor training.**

- \_\_\_\_\_ 1. The employer shall provide at least 2 hours of substance abuse training per year. Supervisors shall receive training to encompass at least 60 minutes on alcohol misuse and at least 60 minutes on drug use. Training shall incorporate physical, behavioral, speech and performance indicators of probable alcohol misuse and use of drugs. Employers shall retain records, to include attendees' signatures, dates and training topics, to document supervisory participation in training. **Pg. 7, SECTION V**