

**LABOR USER CONTRACTOR COMMITTEE  
JOINT LABOR-MANAGEMENT  
UNIFORM DRUG/ALCOHOL ABUSE PROGRAM**

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**I. POLICY STATEMENT**

The parties recognize the problems created by drug and alcohol abuse and the need to develop prevention and treatment programs.

The signatory employers and the signatory unions seek to protect people and property and to provide a safe working environment. The purpose of the following program is to establish and maintain a drug free, alcohol free, safe and healthy work environment for all of its employees.

**II. DEFINITIONS**

- **Company Premises-**  
The term “Company Premises” as used in this policy includes all property, facilities, land, buildings, structures, automobiles, trucks, and other vehicles owned, leased or used by the company. Construction job sites for which the company has responsibility are included.
- **Prohibited Items and Substances-**  
Prohibited substances include illegal drugs (including controlled substances, look a like drugs, and designer drugs) alcoholic beverages, and drug paraphernalia in the possession of or being used by an employee on the job.
- **Employee-**  
Individuals who perform work for the signatory employers, but are not limited to, management, supervision, engineering, craftworkers, and clerical personnel.
- **Accident-**  
Any event resulting in injury to a person or property to which an employee, or contractor / contractor’s employee, contributed as a direct or indirect cause.
- **Incident-**  
An event which has all the attributes of an accident, except that no harm was caused to person or property.
- **Reasonable Suspicion-**  
A belief based on specific facts and rational inferences drawn from these facts sufficient to lead someone to suspect that the person is using drugs or alcohol. Such facts shall include excessive tardiness, excessive absenteeism, and erratic behavior such as noticeable imbalance, incoherence, and disorientation.

### **III. CONFIDENTIALITY**

- All parties to this policy and program have only the interests of employees in mind, therefore encourage any employee with a substance abuse problem to come forward and voluntarily accept our assistance in dealing with the illness. An employee assistance program will provide guidance and direction for you during your recovery period. If an employee volunteers for help, the company will make reasonable efforts to return the employee to work upon recovery. The company will also take action to assure that the employee's illness is handled in a confidential manner.
- All actions taken under this policy and program will be confidential and disclosed only to those with a "need to know", pursuant to Minnesota Statute Section 181.954.
- When a test is required, the specimen will be identified by a code number, not by name, to insure confidentiality of the donor. Each specimen container will be properly labeled and made tamper proof. The door must witness this procedure.
- Unless an initial positive result is confirmed as positive, it shall be deemed negative and reported by the laboratory as such.
- The handling and transportation of each specimen will be properly documented through the strict chain of custody procedures, as well as other reliable and fair safeguards as required by Minnesota Statute Section 181.954.

### **IV. RULES, DISCIPLINARY ACTIONS, GRIEVANCE PROCEDURES**

- a. Rules. All employees must report to work in a physical condition that will enable them to perform their jobs in a safe and efficient manner. Employees shall not:
  - Use, possess, dispense or receive prohibited substances on Company premises; or
  - Report to work with any measurable amount of prohibited substances in their system as indicated by these undertaken pursuant to this policy.
- b. Discipline. When the company has reasonable suspicion to believe an employee is under the influence of a prohibited substance, for reasons of safety, the employee may be suspended until test results are available. If no test results are received after three (3) working days, the employee, if available, shall be returned to work with back pay. If the test results prove negative, the employee shall be reinstated with back pay. In all other cases:
  - Applicants testing positive for prohibited substance use will not be hired.

- Employees who have not voluntarily come forward, and who test positive for a prohibited substance use, will be offered an opportunity to participate in an EAP program, if available, or a counseling / rehabilitation program. However, if the employee refuses to participate in a treatment program or fails to complete the program, the employee will be terminated.
  - Employees who refuse to cooperate with testing procedures will be terminated.
  - Employees found in possession of drugs, drug paraphernalia, or alcohol will be terminated.
  - Employees found selling or distributing prohibited items or substances will be terminated.
- c. Prescription Drugs. Employees using prescribed medication which may impair the performance of job duties, either mental or motor functions, must immediately inform their supervisor of such prescription drug use. For the safety of all employees, the company will consult with his/her physician to determine if a re-assignment of duties is necessary. The company will attempt to accommodate the employee's needs by making an appropriate re-assignment. However, if a re-assignment is not possible, the employee will be placed on temporary medical leave until released as fit for duty by the prescribing physician.
- d. Grievance. All aspects of this policy and program shall be subject to the grievance procedure of the applicable collective bargaining agreement.

## **V. DRUG AND ALCOHOL TESTING-**

The parties to this policy and program agree that under certain circumstances, the company will find it necessary to conduct drug and alcohol testing. While "random" testing is not necessary for the proper operation of this policy and program, it may be necessary to require testing under the following conditions:

- a. A pre-employment drug and alcohol test may be administered to all applicants for employment pursuant to Minnesota Statute Section 181.951, Subdivision 2. "If pre-employment testing is conducted, all applicants must be tested."
- b. A test may be administered in the event a supervisor has a reasonable suspicion to believe that the employee has reported to work under the influence, or is or has been under the influence while on the job; or has violated this prohibited substance policy. During the process of establishing reasonable suspicion for testing, the employee has the right to request his on-site representative to be present.

- c. Testing may be required if an employee is involved in a workplace accident/incident or if there is a workplace injury.
- d. Testing may be required as a part of a follow up to counseling or rehabilitation for substance abuse, for up to a one (1) year period.
- e. Employees may also be tested on a voluntary basis.

Each employee and applicant will be required to sign a consent and chain of custody form, assuring proper documentation and accuracy. An employee or applicant has the right to refuse to sign a consent form authorizing the test, but ongoing employment by the company will be terminated.

Prohibited substance testing will be conducted by an independent laboratory licensed by the Commissioner of the Department of Health, according to the standards established by the Drug and Alcohol Testing In The Work Place Statute and related rules. The applicable threshold detection levels will be those that are established by the Commissioner of Health, pursuant to Minnesota Statute Section 181.953.

If an initial test is positive, a confirmatory test using gas chromatography / mass spectrometry methods will be given. If the confirmatory test is positive, the laboratory will then conduct a confirmatory retest by the gas chromatography / mass spectrometry methodology within three (3) working days. Also, within three (3) working days of a positive test result, the employee or applicant may submit to the employer any information to explain the positive test results.

THE COMPANY WILL BEAR THE COSTS OF ALL TESTING PROCEDURES

## **VI. REHABILITATION AND EMPLOYEE ASSISTANCE PROGRAM**

If an employee tests positive for substance abuse, the company will assist in locating a suitable employee assistance program for referral to treatment, and the employee welfare fund administrator will counsel the employee regarding medical benefits available under the health and welfare / insurance program.

If treatment necessitates time away from work, the company shall provide for the employee an unpaid leave of absence for purposes of participation in an agreed upon treatment program. An employee who successfully completes a rehabilitation program shall be reinstated to his/her former employment status, if work for which he/she is qualified exists.

## **VII. REGULATORY OR CUSTOMER PROGRAM**

The provisions and protection contained in this policy may be superseded when a contractor is engaged in a project which requires employees and applicants to be subject to drug and alcohol testing pursuant to:

- Federal regulations or requirements;

- State Agency rules; or
- Owner requested policy as a pre-qualification for the contractor to be awarded the job. The policy and testing (if required) will be implemented and completed according to the policy of the government agency or owner.

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**QUESTIONS AND ANSWERS**

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**QUESTION:**           **Who is covered and tested?**

**ANSWER:**           Anyone performing work for the company will be covered including managers, supervisors, Craftworkers and engineering and clerical personnel.

**QUESTION:**           **What type of testing is permitted?**

**ANSWER:**           The following testing is addressed in the Labor User Contractor (LUC) Uniform Drug/Alcohol Programs:

- Pre-employment
- Reasonable suspicion basis
- Workplace accident/incident
- Follow-up to counseling or rehabilitation
- Voluntary basis

**QUESTION:**           **What is the basis for “Reasonable Cause” testing?**

**ANSWER:**           The basis for Reasonable Cause in the LUC Program mirrors the definition contained in the Minnesota Drug and Alcohol Testing Act:

**Reasonable Suspicion-**

A belief based on specific facts and rational inferences drawn from these facts sufficient to lead someone to suspect that the person is using drugs or

alcohol. Such facts shall include excessive tardiness, excessive absenteeism, and erratic behavior such as noticeable imbalance, incoherence, and disorientation.

Additionally, workplace accidents and/or injuries are considered to be events permitting suspicion testing under the Minnesota Drug and Alcohol Testing Act and are also grounds for testing under the LUC Program.

**QUESTION:** **Are both drugs and alcohol use tested?**

**ANSWER:** Under the LUC Program both drugs and alcohol use is tested.

**QUESTION:** **What arrangements are made for collection?**

**ANSWER:** The LUC Program emphasizes that actions under the program will be handled in a confidential manner, and any results should be disclosed only to those with a “need to know”. When a test is required the specimen will be identified by a code number. Each specimen should be properly labeled and made tamper proof. The donor must witness this procedure.

**QUESTION:** **Does an employee have the right to refuse to test?**

**ANSWER:** Yes. However, the employee will be subject to discipline, including discharge.

**QUESTION:** **What occurs if an employee tests positive?**

**ANSWER:** The employee is offered an opportunity to participate in an Employee Assistance Program (EAP) for referral to a counseling/rehabilitation treatment program.

**QUESTION:** **Does the Substance Abuse Program incorporate an Employee Assistance Program?**

**ANSWER:** The LUC Program states that employees who test positive will be offered an opportunity to participate in an EAP Program, if available. An EAP Program should then be able to assess the extent of the problem and refer the employee to the appropriate treatment.

**QUESTION:** **What threshold levels will be used by testing laboratory?**

**ANSWER:** The threshold levels used for testing are specified in the regulations. See Minnesota Rule Section 4740.1075 and .1080.

**QUESTION:** **What is done in regards to back pay if any employee is forced out of work waiting for test results?**

**ANSWER:** When the company has reasonable suspicion to believe an employee is under the influence of a prohibited substance, for reasons of safety, the employee may be suspended until the test results are available. If no test results are received after three (3) working days, the employee, if available, shall be returned to work with back pay. If the test results prove negative, the employee shall be reinstated with back pay.

**QUESTION:** **Who bears the cost of the testing program or the treatment program?**

**ANSWER:** The employer bears the costs of all testing procedures

**QUESTION:** **What types of appeals process are available to the employee?**

**ANSWER:** All aspects of the program are subject to the grievance procedure of the applicable collective bargaining agreement.

## Exhibit A

### Consent Form

I hereby acknowledge receipt of the Drug and Alcohol Policy.

My signature acknowledges my understanding and concurrence with the procedures outlined in the above referenced policy. Also, it is my consent to give a urine, blood/saliva sample to be used for drug and alcohol analysis under the conditions outlined in this policy.

Furthermore, I authorize the release of these tests and examination to the Safety Director and EAP Administrator, and the release of negative test results to the union.

I further understand that any violation of the drug and alcohol policy will result in discipline, up to and including discharge.

I understand that any offer of employment, entry into an apprenticeship program, or continued employment is contingent on passing any drug and alcohol test required.

#### PLEASE NOTE:

Within THREE (3) working days of a positive test result, the employee may submit to the Company any information which may explain the positive test.

Employee/Applicant Name (Please Print): \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Employee Number (if applicable): \_\_\_\_\_