

## Drugs and Alcohol in the Workplace

In compliance with the Drug Free Workplace Act of 1988, Kinder Morgan has a longstanding commitment to maintaining a safe and productive work environment. Alcohol and drug abuse pose a threat to the health and safety of our employees and to the security of our equipment and facilities.

Therefore, we maintain a “Zero Tolerance” policy subject to applicable state laws and regulations.

Unless otherwise noted in this policy, drug testing procedures for all employees will be consistent with the Department of Transportation (DOT) guidelines as outlined in the Company’s Anti-Drug and Alcohol Misuse Prevention Plans. This Company policy applies to all employees, no matter the drug pool classification of the job position. If you would like to know your position’s specific drug pool, please contact your supervisor or HR Representative.

This Policy shall be administered in a neutral, non-discriminatory manner and in accordance with all applicable federal, state, and local laws and regulations. While marijuana remains illegal under federal law and we believe its use presents a danger to the safety of our workplace, we recognize that some states have passed “recreational” or “medical” marijuana laws. Therefore, unless local or state law requires otherwise, this Policy will apply to any person who tests positive for marijuana. In addition, employees working at client sites with location-specific drug policies must comply with that drug testing plan’s requirements.

Requests for reasonable accommodation regarding medical use of marijuana in connection with a disability will be addressed under the Reasonable Accommodation for Disability, Religious and Pregnancy Related Issues Policy, Tab 6. Any deviation from drug and alcohol testing as described in this policy requires approval as an exception to the policy.

Be aware that the use of hemp and cannabidiol (CBD) products, that contain an extract from marijuana or hemp plants, may cause a positive drug test result. Regardless of label claims, some of these products may contain tetrahydrocannabinol (THC) compounds at concentrations high enough to cause a positive drug test, and therefore violate the company’s substance abuse policy. Unless state law requires otherwise, a positive drug test will not be excused due to the use of a hemp, CBD, or similar product, even if it is for a claimed medical purpose.

*For more information on the Company Anti-Drug Plans please refer below:*

[PHMSA Anti-Drug and Alcohol Misuse Prevention Plan](#)

[FMCSA Anti-Drug and Alcohol Misuse Prevention Plan](#)

*For more information, please refer to Reasonable Accommodation for Disability, Religious and Pregnancy Related Issues Policy*

# Drugs and Alcohol in the Workplace

## Workplace Drug and Alcohol Prohibitions

You are reminded that the following actions are violations of this Policy:

- The use, possession, sale, distribution of illegal or unauthorized drugs on Company property, while operating any Company vehicle or equipment, or while conducting Company business.
- The use, possession, sale, distribution of alcohol on Company property, while operating any Company vehicle or equipment, or while conducting Company business. The use and possession of alcohol during Company related business or social functions, where the use of alcohol remains moderate, will not be considered a violation of this Policy. Reasonable possession of alcohol (unopened) not related to Company sponsored functions (e.g. receipt as a gift from a vendor) is allowed on a short term basis until the employee takes it home; however the use, as described above, remains prohibited unless approved pursuant to a Company sponsored event;
- The use of any drug, including prescribed drugs, which is unsafe to use while operating Company vehicles or equipment.
- The possession, sale or distribution of paraphernalia and equipment related to illegal or unauthorized drug use.
- The refusal to test in any testable situation. If you are operating any Company vehicle or equipment, or conducting Company business (either during or after regular business hours), you must submit to drug and/or alcohol testing administered or requested by us or a lawful authority. Refusal to submit to the testing, as defined by the policy, will result in termination of employment.

Any violation of the Drugs and Alcohol in the Workplace policy will result in disciplinary action being taken, up to and including termination.

To ensure a safe and drug-free workplace, you should notify a Human Resources Representative of any behavior of co-workers or contract workers that may indicate a violation of the Drugs and Alcohol in the Workplace policy.

This policy applies to employees working remotely.

## Prescription Drug Use

Prior to performing any work you must notify your supervisor and/or your HR Representative if you are taking a prescription or over-the-counter medication that could adversely affect your performance of job-related functions or pose a direct threat to the health and safety of you or others in the workplace. It is not our intent to interfere with the use of drugs legitimately prescribed by a physician. If taking prescription drugs, you are only allowed to take medication as prescribed to you by a licensed physician or medical provider.

# Drugs and Alcohol in the Workplace

If there is any question about your fitness for duty while taking a prescribed medication, we may designate a physician to review your situation and make a determination concerning your fitness to perform the job. The completion of a Fitness for Duty Form may be required.

## Types of Drug and Alcohol Testing

We conduct the following types of drug and alcohol testing as permitted by state laws:

### **Pre-employment**

This testing is conducted before an individual is hired or contracted and when an employee is transferred/ promoted from a non-covered to a covered DOT position. This also applies to returning from a leave of absence when you have not been participating in the anti-drug plan and the random selection process. You will not be allowed to begin employment prior to the receipt of a negative pre-employment drug test result.

### **Reasonable Cause**

We will conduct reasonable cause testing, also known as reasonable suspicion testing, based on our observation of "signs and symptoms" of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an employee. The supervisor making the determination to test shall document, in writing, the behavioral signs and symptoms that support the determination to conduct a reasonable cause/suspicion test. This documentation of the employee's conduct shall be prepared and signed within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier. The supervisor, or a member of management, is required to escort the employee to and from the collection site for reasonable cause testing. If you are required to take a reasonable cause drug and alcohol test, you will not be allowed to return to work until a negative test result is received.

### **Random**

You will be subject to random drug testing as determined by each Business Unit Head. Random testing is an unannounced test designed to deter prohibited drug use and to ensure a drug-free workplace. Selections are made quarterly utilizing a computer based random number generator. Testing is conducted at an annual rate as specified by Federal regulation, client requirements, bargaining units or as determined by Company management. Supervisors must notify employees who are selected for random drug tests to proceed immediately for drug testing.

## Drugs and Alcohol in the Workplace

### **Return-to-Duty**

Return-to-duty testing is conducted after certification by the Substance Abuse Professional to determine that you are able to resume job functions following Voluntary Rehabilitation. A return-to-duty test may be for both drugs and alcohol as determined by the SAP based on information gained during the SAP evaluation/treatment processes.

### **Post-Accident**

You are subject to testing following any incident deemed significant by your supervisor that may have resulted in, but not limited to, any injury requiring medical treatment, or damage to or loss of company property. Post-accident testing may be required if your actions either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. Your supervisor, or a member of management, is required to escort you to and from the collection site for drug and alcohol testing immediately following an accident. Until the test is taken, you will be closely monitored by your supervisor, or a member of management. The business unit VP will determine if employees will return to work following a post-accident drug test.

Testing should be conducted immediately after it is determined that it is appropriate to conduct post-accident drug and alcohol tests. If this cannot be completed immediately, a drug test must be conducted within 32 hours and an alcohol test must be administered within 8 hours following an accident. If testing cannot be completed within that period, the supervisor must document the attempts and explain why the testing was not completed within the required timeframe. Your supervisor, or a member of management, is required to escort you to and from the collection site for drug and alcohol testing.

All employees who are involved in an incident must be treated consistently as it relates to drug and alcohol testing. Therefore, all employees involved in an incident should be considered for testing unless their conduct can be definitively ruled out as a cause of the incident. Drug and alcohol testing should not be conducted when there is low probability that drug or alcohol use contributed to your injury, illness or the property loss or damage (for example, you report a bee sting or a repetitive muscle strain injury). Supervisors are prohibited from using drug testing, or the threat of drug testing, as a form of retaliation or other adverse action against employees who report incidents. Implementing blanket post-incident drug testing policies or practices is prohibited.

# Drugs and Alcohol in the Workplace

Scan QR Code to download Post-Accident Supervisor Guidance Document



## **Follow-up**

After completing drug and/or alcohol rehabilitation, you will be subject to random testing as recommended by the SAP. The SAP will determine the frequency and duration of post-rehabilitation testing. For additional information, refer to the “Voluntary Rehabilitation” section of this policy.

## **Additional Drug and Alcohol Testing**

You may need to perform additional drug and alcohol testing as determined by management or if you work in a customer/work location whose access requirements deem it necessary to do so.

## **Drug and Alcohol Testing Procedures**

Drug and Alcohol tests will be conducted in a confidential manner and in compliance with applicable law. When you are directed by your supervisor to report for any testing, you must proceed immediately to the collection site. Failure to do so is a violation of the policy and will subject you to disciplinary action up to and including termination.

Drug and alcohol testing is conducted at Company approved collection sites. Once the collection process is initiated, you will be provided up to 40 oz. of liquids and given up to 3 hours in which to provide a sufficient urine sample. You must provide at least 45 ml for drug testing purposes. You must follow the instructions of the collector and you must not leave the collection site until the collection process has been completed. Leaving the collection site before completing the

## Drugs and Alcohol in the Workplace

drug or alcohol testing process will be treated as a refusal to test, and will result in termination of employment or an offer being withdrawn.

You will be directed to provide a second sample under direct observation of a drug test collector of your same gender if the initial sample you provided meets any of the following criteria.

- Temperature is out of range of a normal sample
- Appears to be adulterated, substituted or tampered with
- Result of test is “invalid”
- Result of test is “negative-dilute” with a creatinine concentration greater than or equal to 2 mg/dl, but less than or equal to 5mg/dl

All drug tests are analyzed by a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMSHA). Laboratory testing involves specimen screening using immunoassay methodology and confirmed using Gas Chromatography/Mass Spectrometry, if necessary.

If a prohibited substance is detected in your drug screen, you will be contacted by a Medical Review Officer (MRO) and provided an opportunity to explain the result. If you cannot satisfactorily explain and provide documentation to support the result, your test will be reported to us as a positive result.

If you test positive on a drug test, you may request the testing of your split sample by an independent lab. The request for the split sample test must be made within 72 hours of being informed by the MRO of the positive drug test result. Non-DOT covered employees must present payment for the test at the time the request is made. Payment for split sample testing for DOT covered employees will be consistent with DOT guidelines as outlined in the Anti-Drug Misuse Prevention Plan.

# Drugs and Alcohol in the Workplace

## Cut Off Levels

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites	50 ng/mL	THCA	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
<b>Opioids:</b>			
Codeine/Morphine	2,000 ng/mL	Codeine	2,000 ng/mL
6-Acetylmorphine (Heroin marker)	10 ng/mL	Morphine	2,000 ng/mL
Hydrocodone / Hydromorphone	300 ng/mL	Hydrocodone / Hydromorphone	100 ng/mL
Oxycodone / Oxymorphone	100 ng/mL	Oxycodone / Oxymorphone	100 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine / Methamphetamine	250 ng/mL 250 ng/mL
MDMA <sup>1</sup> MDA <sup>2</sup>	500 ng/mL	MDMA1 MDA2	250 ng/mL 250 ng/mL

Kinder Morgan has zero tolerance for violations of its drug and alcohol policies. Testing positive for any of the listed drugs other than marijuana will result in immediate termination. A positive test for marijuana may result in discipline up to and including termination depending on state and local laws governing medicinal and recreational use of marijuana and related products.

Any test for alcohol at the .04 level or higher is considered a positive test and will result in termination. Any test results for alcohol within the prohibited range (.02 - .039) will result in discipline including possible termination. In addition, you may be referred to the Company's Employee Assistance Program (EAP) program, through Magellan and their certified Substance Abuse Professional (SAP). Follow up may also include unannounced follow-up testing on a random basis.

Factors that the company will consider in applying **discipline** for results in the prohibited range will include but are not limited to state and local laws, the safety sensitive nature of the job, previous treatment or participation in a **substance abuse program or results in the prohibited range**. Disciplinary action may include, but is not limited to: removal from working in a covered position, suspension, loss of pay and termination of employment.

# Drugs and Alcohol in the Workplace

## Searches and Tests

We reserve the right to have authorized personnel conduct searches of our employees, contract workers, and employees of third-party contractors without prior notice. Accordingly, all areas of Company property may be searched regardless of whether locked, including employee work locations, stations, areas, offices, desks, files, lockers, etc. Employees and their personal belongings, vehicles, etc. may also be searched if on or within Company property. Your refusal to allow a search of your personal belongings may result in disciplinary action up to and including termination. Employee searches will be conducted in compliance with applicable law.

We reserve the right, at all times, to have authorized personnel conduct urinalyses, blood tests, or other types of tests of our applicants, employees, contract workers, and employees of third-party contractors for the purposes of determining if any such persons are in violation of this Policy. A urinalysis, blood test, or other type of test may be used in the following situations:

- Pre-employment testing
- Testing based on reasonable cause or suspicion
- Random or periodic testing
- Testing following an accident or incident involving injury or property damage
- Testing that is consistent with the enforcement of this Policy.

We reserve the right to inspect and search Company property at any time without your presence or consent. If you, as a result of a search, have been found in violation of this Policy or other Company Policies, you will be subject to corrective action as described in the Corrective Action Policy.

## Reporting Arrests, Criminal Charges and Convictions

You must immediately notify your supervisor and Human Resources upon receiving notice of any arrests, criminal charges and/or convictions. "Immediately" is defined as prior to performing any job related duties.

Failure to provide notification will result in disciplinary action being taken, up to and including termination.

## Voluntary Rehabilitation

You may voluntarily seek counseling or rehabilitation for assistance with substance abuse. This may be done in advance of being notified to take a drug or alcohol test. You will not be allowed to provide notice and avoid a drug test once

## Drugs and Alcohol in the Workplace

you have been notified to take a drug or alcohol test or after involvement in a situation that could result in discipline.

Supervisors must notify Human Resources when you express interest in Voluntary Rehabilitation to ensure that you are referred to Kinder Morgan's EAP, Magellan, and to ensure that the appropriate Return to Duty paperwork is completed along with any recommendations for follow-up drug and/or alcohol testing.

When seeking rehabilitation for any drug or alcohol issue, your treatment and follow up must be coordinated by Kinder Morgan's EAP provider, Magellan, and Magellan's certified SAP. Upon successfully completing or participating in a supervised substance-abuse or alcohol related rehabilitation program and prior to returning to work, we require Magellan's certified SAP to provide us with certified documentation stating that you are fit to return to duty and perform the essential functions of your job.

A return to duty drug and/or alcohol test will be required prior to your returning to work. Failure to follow the above process may lead to being off work without pay to complete the process. The EAP is available to all Company employees. You may contact your supervisor or Human Resources for information about the EAP. The EAP is strictly confidential and available by telephoning:



**Magellan Healthcare: 1-800-424-6207**

If you call the EAP directly you must **ask for referral to a SAP**. Use of the EAP does not exempt or excuse a violation of this Policy.

You must comply with all EAP and SAP recommendations, scheduling and requirements such as random follow-up testing if required. Failure to do so may result in disciplinary action up to and including termination.

*For more information on drugs and alcohol policies, processes and assistance please refer to the Employee Drug and Alcohol Resource Page*

# Drugs and Alcohol in the Workplace

## Definitions

- **Alcohol:** ethyl alcohol, an intoxicating element in fermented or distilled liquor or in any other compound, or other low molecular weight alcohol, including but not limited to, methyl and isopropyl alcohol, and including without limitation, beer, wine, and distilled liquors.
- **Company property:** used in the broadest sense and includes, but is not limited to, all property, equipment, land, onshore and offshore platforms, buildings, structures, installations, facilities, locations, boats, aircraft, and vehicles which are owned, leased, used or operated by or on behalf of us for any purpose, or which are located on Company property, and any personal effects or items located thereon or therein. This includes, among other items, desks, lockers, and workstations, as well as privately owned vehicles and other personal belongings located on or in Company property.
- **Drugs:** prescription drugs, inhalants, and other illegal, controlled, or unauthorized substances that may cause addiction and/or affect coordination and/or memory, or a drug that federal and state law makes illegal to distribute, use or possess.
- **Invalid test:** a result of a drug test that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result. Invalid tests are cancelled by the Medical Review Officer and may require recollection from the individual under direct observation.
- **Possess or possession:** having any amount of illegal or unauthorized drugs or alcohol on one's person or belongings at any time during employment; on Company property; while conducting Company business; operating Company property; in one's personal belongings or vehicle while on Company property; in a vehicle or any mode of transportation owned or leased, or rented for Company use; or at any location used by us to conduct business.
- **Refusal to Test:** the donor fails to cooperate with the collection process, does not provide a specimen as needed for drug or alcohol testing or fails to report to or remain at the collection site to complete the requested drug or alcohol tests.
- **Substance Abuse Professional (SAP):** a person who evaluates employees who have violated this Policy or seeks Voluntary Rehabilitation and makes recommendations concerning education, treatment, follow-up testing and aftercare.
- **Use:** with regard to drugs is defined as having any trace amount of drugs in the applicant's or employee's system, or physical consumption of drugs. "Use" with regard to alcohol is defined as the physical consumption of alcohol. "Use" with regard to drugs and alcohol is also defined as being under the

## Drugs and Alcohol in the Workplace

influence of drugs or alcohol at any time during working hours, while conducting Company business or on Company's property.

- **Zero Tolerance:** in this Policy means that if you test positive for drugs or alcohol, as defined by this Policy, the resulting disciplinary action will be termination of employment for cause, except where prohibited by law. In addition, any refusal to take, adulteration or substitution of any drug or alcohol test will be considered a violation of this Policy and will result in termination of employment.

### Q&A

**Q1: Why have I been selected to be drug tested once again this year? I feel that I am being singled out by management.**

**A1:** Kinder Morgan's Third Party Administrator generates the random selection quarterly using a "randomizer" program. You remain in the random selection pool at all times, regardless of whether or not you have been previously selected for testing. Consequently, you are subject to selection in consecutive quarters.

**Q2: Occasionally I work out of town for a week at a time and I drive a company truck. Is it ok for me to buy beer after work and transport it unopened to my hotel room?**

**A2:** In this specific, limited situation, reasonable possession of unopened alcohol on a short term basis may be allowed provided you obtain your supervisors' approval prior to its transportation in a company vehicle. You must never possess open containers of alcohol in a company vehicle and at no time during your shift be under the influence of alcohol.

**Q3: What if there is a delay while at the testing site of the post-accident or reasonable suspicion drug testing of an employee, what should I do?**

**A3:** Supervisors must identify another testing site or mobile testing unit, if a post-accident or reasonable suspicion drug test is delayed for 30 minutes or

## Drugs and Alcohol in the Workplace

more. The supervisor can access this information on [Pipeline Testing Consortium's](#) website or by contacting their HR Representative.



**Q4: How much notice should employees receive regarding their selection for a random or reasonable suspicion drug test?**

**A4:** An employee should not be provided advance notice of a random test. They should be sent to test immediately after being notified of his/her selection.

**Q5: May I consume alcohol during those times when I'm not on Company property or on duty, but representing the Company, such as at lunch or at a function sponsored by a vendor?**

**A5:** We require that any alcohol consumption away from Company property or outside of work hours not interfere with your ability to safely and professionally perform your duties. Your behavior must not negatively impact the Company in any way. If the Company determines that you are under the influence at any company related event, you may be subject to discipline under the Drug and Alcohol policy.

# Drugs and Alcohol in the Workplace

## APPENDIX

Some states have specific laws or regulations related to Drugs and Alcohol. This section addresses those laws specific to individual states. The provisions of each state law section apply only within that state.

### Arkansas

The Company adopts this policy and related procedures and practices to maintain a safe and productive work environment. This drug-free workplace program has been implemented pursuant to Arkansas Workers' Compensation Rule 099.36. In accordance with Section 1 of Rule 36, the program includes: 1. Notice to employees, 2. Education of employees, and 3. Requirements for drug and/or alcohol testing in accordance with Rule 36.

If a prohibited substance is detected in your drug screen, you will be contacted by a Medical Review Officer (MRO) and provided an opportunity to explain the result. You must report the use of any prescription or over-the-counter medications to the MRO, but only if there is a positive result for drugs or alcohol. If you cannot satisfactorily explain and provide documentation to support the result, your test will be reported to us as a positive result. Employees and job applicants must be given a reasonable opportunity to consult with a medical review officer for technical information regarding prescription and nonprescription medicine.

An employee or job applicant who receives a positive confirmed test result may also contest or explain the result within five (5) business days after receiving written notification of the test result.

It is the responsibility of every employee or job applicant to notify the testing laboratory of any administrative or civil action brought pursuant to Act 1552 of 1999 Section 5a. The provisions of this policy are subject to any applicable collective bargaining agreement or contract and include the right of appeal as described in AWCC Rule 099.36, Section XIV.

All information, interviews, reports, statements, memoranda and drug or alcohol test results, written or otherwise, received through our drug or alcohol testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section of in determining compensability under Ark. Ann. Code §11-14-109 or Ark. Ann. Code §11-9-409 B.

## Drugs and Alcohol in the Workplace

All laboratories, medical review officers, employee assistance programs, drug or alcohol rehabilitation programs, and their agents who receive or have access to information concerning drug or alcohol test results shall keep all information confidential. Release of such information under any other circumstance is authorized solely pursuant to written consent form signed voluntarily by the person tested.

Information on drug or alcohol test results shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section is inadmissible as evidence in any such criminal proceeding.

These rules do not prohibit us, our agent or laboratory conducting a drug or alcohol test from having access to employee drug or alcohol test information or using such information when consulting with legal counsel in connection with actions brought under or related to employment, or when the information is relevant to its defense in a civil or administrative matter. Neither is this section intended to prohibit disclosure among management as is reasonable necessary for making disciplinary decision

### **Notice to Job Applicants and Employees**

It is a condition of employment that employees abide by this Policy. Violators are subject to disciplinary action up to and including termination. Requirements of our drug-free workplace program include:

- that an employee must refrain from reporting to work or working with the presence of drugs or alcohol in the employee's body;
- an employee or job applicant may be required to submit to drug and/or alcohol testing; and
- we will take legally allowed actions against an employee or job applicant on the basis of a positive, confirmed, verified drug or alcohol test result.

Our drug-free workplace program is hereby being implemented and the effective date of the program is effective immediately.

A notice of our drug and alcohol testing policy will be posted in an appropriate and conspicuous location on our premises. Copies of this policy are available for inspection by employees or job applicants during regular business hours in the personnel office.

### **Minnesota**

The following provisions apply to all employees and applicants for employment in Minnesota.

For the purpose of this Minnesota Appendix to the Policy, the following terms have the following meanings:

## Drugs and Alcohol in the Workplace

- “Cannabis” means marijuana, tetrahydrocannabinols (“THC”), cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products, as those terms are further defined by Minnesota law.
- “Drug” means a controlled substance as defined in Minnesota Statutes section 152.01, subdivision 4, but does not include cannabis.
- “Reasonable suspicion” means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
- “Safety-sensitive position” means a job, including any supervisory or management position, in which an impairment caused by drug, alcohol, or cannabis usage would threaten the health or safety of any person.

The Company may require an applicant or employee to undergo drug, alcohol, and/or cannabis testing under the following circumstances:

- **Pre-Employment** – We may require a job applicant to undergo drug and alcohol testing, provided a job offer has been made and the same test is required for all job applicants conditionally offered employment for that position.

We may also require a job applicant to undergo cannabis testing, provided a job offer has been made for one of the following positions and the same test is required of all job applicants conditionally offered employment for that position:

- (1) a safety-sensitive position;
  - (2) a position requiring a commercial driver’s license or requiring an employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing of a job applicant or an employee;
  - (3) a position of employment funded by a federal grant; or
  - (4) any other position for which state or federal law requires testing of a job applicant or an employee for cannabis.
- **Post-Accident** – We may require an employee to undergo drug, alcohol, and cannabis testing if we have a reasonable suspicion that the employee (1) has sustained a personal injury, (2) has caused another employee to sustain a personal injury, (3) has caused a work-related accident, or (4) was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.
  - **Post-Rehabilitation Treatment Program** – We may require an employee to undergo drug, alcohol, and cannabis testing if the employee has been referred for substance use disorder treatment or evaluation or is participating in a substance use disorder treatment program under an employee benefit plan. Under such circumstances, we may require the

## Drugs and Alcohol in the Workplace

employee to undergo drug, alcohol, and cannabis testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed substance use disorder treatment program.

- **Random** – We may require employees to undergo drug, alcohol, and cannabis testing on a random selection basis if the employee is employed in a safety-sensitive position.
- **Reasonable Suspicion** – We may require an employee to undergo drug, alcohol and cannabis testing if we have a reasonable suspicion that the employee (1) is under the influence of drugs, cannabis, or alcohol or (2) has violated our written work rules prohibiting the use, possession, sale, or transfer of drugs, alcohol, or cannabis while the employee is working, on our premises, or operating the our vehicle, machinery, or equipment, including the rules stated in this Policy and the Workplace Drug and Alcohol Prohibitions.

Applicants and employees have the right to refuse testing required under this policy. Such refusal will be treated as a failure to comply with the Policy and may result in withdrawal of a job offer made contingent on passing a drug, alcohol, or cannabis test or discipline, up to and including termination of employment.

In the event of a positive test result, the applicant or employee has the right to explain the positive test result. Such explanation must be submitted in writing within three working days of the applicant or employee's receipt of the test result. The applicant or employee may also request, at their own expense, a confirmatory retest of the original sample. Such request must be submitted in writing within five working days of the applicant or employee's receipt of the test result.

**Consequences for Applicants** – If a job applicant has received a job offer made contingent passing drug, alcohol, or cannabis testing under this Policy, we will not withdraw the offer based on a positive test result from an initial screening test that has not been verified by a confirmatory test. A confirmed positive test result may result in withdrawal of our job offer to the applicant. If the job offer is withdrawn, we will inform the job applicant of the reason for such action.

**Consequences for Employees** – We will not take adverse action against an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.

## Drugs and Alcohol in the Workplace

Except as stated otherwise, we may subject an employee who receives a confirmed positive test result to discipline, up to and including termination of employment. After requiring an employee to undergo testing, we may temporarily suspend the employee or transfer the employee to another position at the same rate of pay pending the outcome of the confirmatory test and, if requested, the confirmatory test, if we believe doing so is reasonably necessary to protect the health or safety of the employee, other workers, or the public.

The first time an employee receives a confirmed positive test result on a test we required, we, before discharging the employee, will give the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan (if available), either a drug, alcohol, or cannabis counseling or rehabilitation program, whichever is more appropriate, as determined by the Company after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of substance use disorder. If the employee refuses to participate in the counseling or rehabilitation program or fails to successfully complete the program (e.g., by withdrawing from the program before its completion), we may discharge the employee. If the employee again receives a confirmed positive test result on a test we required, we may immediately discharge the employee.

### **New Jersey**

In accordance with the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (NJCREAMMA), employees and applicants in the state of New Jersey who engage in off-duty use, test positive for, or admit to the use of marijuana are protected from adverse employment actions with the exception of those situations noted in this policy below.

### **Exceptions**

The Company has the right to maintain a drug and alcohol free workplace to ensure a safe and productive work environment. The following are exceptions to the NJCREAMMA that, if violated, will result in disciplinary action being taken, up to and including termination.

### **Workplace Use/Possession and Intoxication**

Employees are not permitted to use, possess, sell or be under the influence of marijuana or marijuana products in the workplace or during work hours.

### **Driving while impaired or under the influence**

Employees are not permitted to drive while being impaired by, or under the influence of, marijuana or marijuana related products.

# Drugs and Alcohol in the Workplace

## **Department of Transportation (DOT) Positions - Federal Contract Requirements**

Testing and disciplinary action can be taken against employees who test positive for marijuana in their system if the Company is required to do so by a federal contract or agency. As marijuana is still illegal under federal law, employees that occupy a position that is regulated by the DOT are subject to its drug and alcohol testing regulations.

### **Drug Testing**

Nothing in this law prohibits the Company from conducting drug and alcohol testing on applicants or employees. As such, employees are required to submit to drug testing under the following circumstances:

- Upon suspicion of drug use while engaged in the performance of work responsibilities,
- Upon finding any observable signs of intoxication related to drug use, or
- Following a work related accident.

### **Testing Procedures**

Non-DOT reasonable cause and post-accident marijuana testing must include both of the following before the Company may take adverse action:

- A physical evaluation to determine an employee's state of impairment and
- A form of scientifically reliable objective testing methods and procedures such as the testing of urine, saliva, or blood.

Physical evaluations will be conducted by a Company designated Workplace Impairment Recognition Expert (WIRE). WIREs will use evidence-based protocols for documenting observed behavior and physical signs of impairment to develop reasonable cause. The WIRE making the determination to test shall document, in writing, the behavioral signs and symptoms that support the determination to conduct a reasonable cause/suspicion test. This documentation of the employee's conduct shall be prepared and signed within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier. The WIRE, or a member of management, is required to escort the employee to and from the collection site for reasonable cause testing. If an employee is required to take a reasonable cause drug and alcohol test, they will not be allowed to return to work until a negative test result is received.

### **REMINDER: Other Drug Tests:**

Testing positive for any of the listed drugs other than marijuana will result in immediate termination.