

CRANE RENTAL ASSOCIATION OF ONTARIO
DRUG AND ALCOHOL POLICY GUIDELINES

In light of the safety sensitive nature of the industry in which members of the Crane Rental Association operate, it is critical that members take appropriate steps to ensure the health and safety of their employees. As the use of drugs and/or alcohol by employees while engaged in work either on a member or client's site can lead to serious consequences, including injury, property damage and potentially death, we recommend that members adopt and implement a Drug and Alcohol Policy.

For your reference, a sample Drug and Alcohol Policy is enclosed which we strongly encourage the members of the Association to consider for adoption when implementing their own policy. While no single policy will be appropriate for every member organization, this sample policy is endorsed by the Board of Directors. This sample policy reflects the general state of the law in Ontario as of the date of these Guidelines. The law in this area is constantly evolving, so any policy which is implemented should be reviewed and updated accordingly.

While drafting a Drug and Alcohol Policy, members should consider the specific nature of their operations and how different employees will be affected by its implementation. For example, it may not be possible to subject employees who do not occupy safety sensitive positions to the same requirements and obligations as those who do. To illustrate, while courts and arbitrators have generally accepted that reasonable cause and post incident or near miss drug and alcohol testing may be conducted on persons occupying safety sensitive positions, courts and arbitrators have been reluctant to condone substance abuse testing for persons in non-safety sensitive positions. It is therefore crucial to clearly define which positions will be considered "safety sensitive". A description of how courts and arbitrators have interpreted the term "safety sensitive" is included in the sample Drug and Alcohol Policy.

Members should also consider individual client's requirements and policies regarding drugs and alcohol when drafting a Drug and Alcohol Policy. Members should ensure that all employees understand that they may be subject to more stringent standards while working on a client's site and that they have a copy of the client's policy before commencing work on that site.

As drug and alcohol addiction is considered a disability under the Ontario *Human Rights Code*, members must ensure that if it suspects an employee may suffer from an addiction, appropriate action is taken to avoid claims of discrimination. We recommend retaining and consulting with an Employee Assistance Provider ("EAP") and/or legal counsel in this regard.

Finally, given the highly sensitive nature of substance abuse testing and that privacy concerns often arise in this context, we recommend that members engage the services of qualified and experienced organizations to conduct testing as part of any policy.

DRUG AND ALCOHOL POLICY

[COMPANY NAME]

[DATE ADOPTED]

1. Definitions and Terms*

“**Collective Agreement**” refers to the collective agreement and any successor agreements entered into between the Company (as defined herein) and the Union (as defined herein).

“**Company**” refers to **[Insert name of Company]**.

“**Operations**” includes all activities undertaken by employees or contractors on Company Premises (as defined herein) and/or activities undertaken in the course of carrying out their employment or contract duties.

“**Company Premises**” includes, but is not limited, to all land, facilities and property owned, leased, directly controlled by the Company as well as all land, facilities and property owned, leased, or controlled by a person or entity with which a Company has entered into a contract for services or work (i.e. a Company’s customer or client). Without limiting the foregoing, this includes all mobile equipment and vehicles owned, leased or under the control of the Company, or its customers or clients.

“**Drug(s)**” includes, but is not limited to, any substance, prescription medications which are acquired without a legally obtained prescription, intentionally misused prescription medications, illicit drugs (i.e. any drug or substance that is not legally obtainable in Canada), solvents or inhalants that may inhibit an employee’s ability to perform his or her assigned duties in a safe and productive manner.

“**Alcohol**” includes, but is not limited to, beer, wine, spirits or any other intoxicating compound.

“**Fit for Duty**” in the context of the Policy means being able to perform assigned duties in a safe and productive manner and not under the influence, impaired, or limited in any way by Drugs and/or Alcohol, or their after-effects.

“**Policy**” refers to the Company’s Drug and Alcohol Policy.

“**Safety Sensitive Positions**” are those where the duties or responsibilities of the position could have a direct negative impact that could affect the health or safety of employees or others, including the individual occupying the said position, contractors, customers, the public or the environment or could lead to damage of property or Company Premises. This includes employees who are required to rotate through Safety Sensitive Positions or who temporarily relieve employees in Safety Sensitive Positions. Supervisors or team leaders and senior managers who directly supervise employees occupying Safety Sensitive Positions, or who perform the same duties or exercise the same responsibilities, are deemed to hold Safety Sensitive Positions. A list of designated positions which are deemed by the Company to be Safety Sensitive Positions are set out in Schedule “A”. This list will be kept current to reflect changes in job content or new positions.

“**Union**” refers to the International Union of Operating Engineers, Local 793.

* For the purposes of this Policy only.

2. Purpose and Objectives

The purpose of the Policy is to communicate to employees the Company's position on Drug and Alcohol use and its effects on the workplace. The Company is committed to providing and maintaining a safe and healthy work environment. This commitment includes the health and safety of employees, contractors, Company customers and clients, and the community at large.

The Company recognizes that the use of Drugs and/or Alcohol can limit an employee's ability to perform in a safe and productive manner in the workplace and can pose a serious threat to the health and safety of him or herself and others. This is especially the case where the majority of employees are operating equipment which, if handled improperly, can lead to serious injuries, if not death.

The objective of the Policy is to ensure that safeguards are in place to promote a safe and healthy work environment and to minimize the risk of impaired performance and injuries or accidents as a result of Drug and/or Alcohol use. In addition, the objective of the Policy is to ensure that any Drug and/or Alcohol testing that is carried out under the Policy is done in a fair and neutral manner with respect for employee privacy and confidentiality.

The Company strives to work with the Union to actively promote and encourage early diagnosis and treatment of employees who may suffer from a Drug and/or Alcohol disability and assist them towards full rehabilitation. The Company respects the importance of employees' rights to privacy and confidentiality. Where an employee suffers from a disability under the Ontario *Human Rights Code* (the "Code"), the Company will make reasonable efforts to accommodate that Employee, in accordance with its obligations at law.

3. Scope

The Policy applies to all employees. However, some portions of the Policy (which are specified herein) are directed only at employees occupying or performing Safety Sensitive Positions.

4. Employee Responsibilities

Employees are required to comply with the Policy and the standards and principles outlined herein. The Company reserves the right to discipline employees, up to and including termination, for failure to comply with the Policy.

- A. Use, possession, distribution, cultivation, offering or sale of Drugs and/or Alcohol or illicit Drug and/or Alcohol paraphernalia, on Company Premises or during the course of Operations, is strictly prohibited.
- B. Employees are required to report to work Fit for Duty. This includes remaining Fit for Duty and in compliance with the Policy while on call.
- C. Employees are required to perform their jobs in a safe and lawful manner and in accordance with the provisions of the Policy, the Collective Agreement, and any and all other policies, procedures, or relevant legislation applicable to Employees.

- D. Employees who suspect they have a Drug and/or Alcohol dependency or emerging issue related to Drugs and/or Alcohol are encouraged to seek medical and/or professional advice and follow recommended treatment promptly before job performance is affected or violations of the Policy occur. Employees are encouraged to consult their supervisors, human resource staff, and/or the Company's Employee Assistance Program [**NTD: Confirm EAP exists**] provider in the event they have concerns about their own Drug and/or Alcohol use.
- E. Employees are expected to responsibly use prescribed and over-the-counter medications. Where the use of a prescribed or over-the-counter medication could inhibit an individual's ability to carry out the duties of his or her position safely, employees must advise management immediately. In such circumstances management will endeavour to accommodate employees accordingly.
- F. The Company is committed to working with the Union and employees to ensure early diagnosis, treatment and rehabilitation in cases of Drug and/or Alcohol related disabilities. Employees are expected to adhere to work related limitations that may be imposed to appropriately accommodate him or her and to ensure the safety, health and welfare of the individual as well as other employees and the work environment.
- G. Where there are grounds to believe that an employee may not be Fit for Duty, while on Company Premises or during the course of Operations, management may remove the individual from their duties. The employee will be given an opportunity to explain why they appear unfit for work in a private and safe area. Depending on the circumstances, an employee may be subject to discipline, up to and including termination, if there is a breach of the Policy.
- H. Where an employee suspects a co-worker may not be Fit for Duty, he or she must report such suspicions to his or her supervisor or a member of management immediately.

5. Management Responsibilities

- A. Management is responsible for administering the Policy consistently, and for resolving questions of interpretation in areas where the Policy may be ambiguous or silent, with due regard for the fair treatment of employees. Management will update the Policy where necessary to respond to the evolving needs of the Company and developments in the law.
- B. Management will provide training in an effort that all supervisors and human resources staff are trained to recognize signs of Drug and/or Alcohol abuse or misuse and identification of situations where an employee may not be Fit for Duty. Management may engage the services of its Employee Assistance Program [**NTD: Confirm EAP exists**] provider to ensure this training is carried out in an effective and proper manner.

- C. Management is required to ensure the confidentiality and privacy of all employees is respected in accordance with the Company's obligations at law.
- D. Management will ensure that all Employees who suffer from a Drug and/or Alcohol related disability are appropriately accommodated, consistent with the Company's obligations at law.
- E. No employee with a Drug and/or Alcohol related disability will be disciplined or terminated solely for requesting help in overcoming their disability.

6. Alcohol & Drug Testing

The Company believes that the best prospect for long term success is a mutually responsible approach towards Drug and Alcohol testing involving the Union, employees and the Company. The Company may require, at its discretion, that employees occupying or performing Safety Sensitive Positions undergo Drug and/or Alcohol testing, with the employee's consent, to assess whether the individual was impaired or under the influence of Drugs and/or Alcohol in the following circumstances.

- (i) Where there is reasonable cause to believe that the employee is under the influence or impaired by Drugs and/or Alcohol on Company Premises or during the course of Operations. Testing for reasonable cause shall occur no more than four hours from the time the decision was made to test.
- (ii) Where an incident/accident or near miss has occurred and there is reasonable cause to suspect that an employee's Alcohol and/or Drug use may have been a contributing factor in the incident by reason of the occurrence itself, observations and surrounding circumstances. Testing following an incident or near miss shall be conducted as soon as possible from the time the incident took place.
- (iii) As part of a return-to-work program or last chance agreement negotiated with the Union and employee as a result of an Employee having been found to be under the influence or impaired by Drugs and/or Alcohol or who suffers from a Drug and/or Alcohol disability. This may include random Alcohol testing. This may also include random Alcohol and/or Drug testing where an employee suffers from a Drug and/or Alcohol related disability. This provision does not place any obligation on the Company to enter into such an agreement.

Employees may also be required to submit to additional Drug and/or Alcohol testing over and above what is provided for in the Policy as part of a contractual condition with certain customers or clients. This testing will be considered voluntary. Employees who refuse testing will not be allowed to work for that customer or client.

Drug and/or Alcohol Testing will be undertaken with stringent controls to ensure accuracy and employee privacy and confidentiality is respected. Where necessary, test results will be discussed with the employee and an investigation will take place to confirm the employee's impairment. In order to ensure accuracy and safeguard employee privacy and confidentiality, the Company will retain the services of a qualified and experienced third party to be engaged throughout the testing process.

Where an employee refuses to undergo Drug/and or Alcohol testing, as requested in circumstances (i) through (iv), the Company may take such refusal into consideration in determining the appropriate course of action with respect to such Employee, which could include discipline, discharge or other measures.

Appendix “A”**Safety Sensitive Positions**

- Crane Operators
- Transport Truck/Float Drivers
- Mechanics
- Apprentice Mechanics
- Apprentice Crane Operators
- Crane Supervisors