

COLORADO SHEET METAL INDUSTRY ALCOHOL AND SUBSTANCE ABUSE POLICY

This policy is adopted by reference in CO A-07-19 (or successor agreement) by SMART Local 9 and SMACNA Colorado. The policy may be amended by mutual consent of SMART Local 9's Executive Committee and the SMACNA Colorado Board of Directors at any time.

Section 1: Applicability

This Policy applies to all construction company employees covered under CO A-07-19 within the SMART Local #9 jurisdiction and applicants for any such position.

Section 2: Preface

Alcohol/substance abuse is recognized as a treatable illness. The desired result is rehabilitation. The preferred rehabilitation procedure is through referral to the Family Health Plan approved Members Assistance Program (MAP) or a state approved and certified resource, hereinafter referred to as the (MAP). Costs associated with the MAP will be borne by the individual if not covered by the employee's health insurance benefits. The use of alcohol or illegal drugs during working hours, or on a job site or on employer premises is absolutely forbidden. Any Employee or prospective employee who violates this policy shall be required to undergo rehabilitation and may be subject to discipline including termination. Company management personnel and immediate supervisors may make exceptions for the use of alcoholic beverages for company sponsored social events when proper safeguards are utilized.

(A) The term use shall be defined as consuming, processing, selling, concealing, distributing or arranging to buy or sell, being under the influence or reporting for duty under the influence of alcohol or illegal drugs.

(B) Employers' premises shall be defined as company vehicles, parking lots, and storage areas, as well as the job site and shop.

(C) The term alcohol or illegal drugs shall be defined as any form of alcohol and/or other intoxicating substances, narcotic plants or similar narcotic substances, including legal drugs obtained illegally. Any drug that is illegal under either Federal law or State laws - with the express understanding that any drug deemed legal under State laws, but deemed illegal under the Federal law, shall be construed as illegal

(D) The term working hours shall be defined as all time in which an Employee is engaged in work duties including travel time or other times subject to the Employers control.

(E) The term under the influence of alcohol shall be defined as a body alcohol content of 0.05 percent or greater.

(F) The term under the influence of an illegal drug shall be defined as urine content determined to equal or exceed the levels established by the Alcohol, Drug Abuse, and Mental Health Administration of the United States Department of Health & Human Services.

(G) A member who suspects he/she has developed an addiction to, dependency on, or otherwise has a problem with alcohol or drugs, is expected to seek assistance from the MAP. Any person who voluntarily enrolls in the MAP and seeks assistance or rehabilitation for alcohol and/or drug related problems prior to being screened or tested shall be granted amnesty and discipline is waived for drug/alcohol related issues so long as the person continues to participate satisfactorily in the rehabilitation or counseling program.

Section 3: Types of Allowable Testing

(A) The SMART Local #9 and SMACNA Colorado Labor/Management Drug and Alcohol Testing Fund (“the Fund”) regards urine testing as problematic and does not advocate reliance on such procedures to identify individuals with an alcohol/chemical dependency. However, to show our commitment to a safe work environment, all current employees covered under this agreement who have not been tested on a pre-employment basis will be required to participate in an initial urine drug-screening test. Certain circumstances support substance testing as a warranted vehicle for determining possible impairment and/or a propensity for substance abuse. These include: (a) Random Screening, (b) Probable Cause Testing, (c) Work Opportunities Mandated Testing, and (d) Post Accident or Injury Testing.

(B) Random Testing:

1. Employees shall be subject to unannounced random drug testing. Random selections will be made 12 times a year at an annualized rate of twenty-five (25) percent. Random selections will be made by the use of a computer-generated numerical program designed to ensure that no employee can be singled out. Upon notification of workers selected for random testing, communicators shall have ten (10) calendar days to complete the random testing requirement. Workers must report for random testing at the time of notification by their communicator of their random selection, which must be done within twenty-four (24) hours of notification.

2. SMART Local Union #9 shall maintain a database of employees indicating their current eligibility status in the program. A worker’s status shall indicate the individual’s compliance or non-compliance with the Program’s terms and conditions as follows:

- a. Active Status: Employees who have been subject to and have complied with the Programs terms and who therefore are eligible for immediate placement without having to take another drug test.
- b. Inactive Status: Employees who have had a diluted or unsuitable test result and need to be re-tested.
- c. Pending Status: Employees who have provided a specimen but the final results have not been received from the laboratory and/or Medical Review Officer.

- d. Random Status: Employees who have been selected for a random drug test and have not yet provided a specimen.
- e. Reinstated Status: Employees who have been suspended for violation of the Policy and must complete the reinstatement requirements prior to being returned to Active Status.
- f. Periodic Testing: Substance testing will be required of individuals who have not been tested within a forty-eight-month period.

3. Pre-employment Testing: employees are subject to drug screening to ascertain whether an employee is capable of safely performing the duties and meeting the prerequisites of employment offered. However, if the employee has an Active Status under this policy and has been out of work for less than 31 days, the applicant is eligible to immediately go to work without testing. A negative pre-employment test shall move an employee's status to Active.

4. a. Employees (except pre hires) will be compensated by the employer for all substance testing; either at the applicable rate during working hours up to one (1) hour or at one (1) hour of show-up pay during off work hours.

b. For each successful test, the Employee (except pre hires) shall be compensated \$50.00 from the Drug Testing Fund.

c. All mileage associated with being tested shall be paid to the Employee, by the employer, using the current IRS rates.

5. If an employee's random test is "sent to the lab" the employee will continue working until the results are conclusive.

6. Confirmed Positive: An individual with a confirmed positive test result is not eligible for referral or return to work until satisfaction of one of the following conditions:

g. An opportunity to seek assistance in overcoming a drug or alcohol problem through an evaluation and rehabilitation program through the MAP or other recognized and approved rehabilitation or counseling program. Costs of the MAP program will be borne by the individual, unless covered by the health insurance benefits. The individual must provide, at their own cost from a certified testing facility, a negative drug and alcohol test result before returning to work.

h. Immediate termination from employment with no opportunity to retest for (30) days if assistance is declined or the rehabilitation/counseling program is not successfully completed. After (30) days, the individual must provide, at their own cost from a certified testing facility, a negative drug and alcohol test result before returning to work.

(C). Probable Cause Testing: Substance testing can be implemented when there is "probable cause." Probable cause shall be defined as those circumstances, based on objective evidence

about the employee's conduct in the workplace, that would cause a reasonable person to believe that the Employee is demonstrating signs of impairment due to alcohol or drugs. Examples of objective evidence include signs of impairment such as difficulty in maintaining balance, slurred speech, erratic or atypical behavior, or an apparent inability to perform his/her job in a safe manner. The examples noted, or others, must be observed and documented by the employee's jobsite supervisor and at least one other supervisory or managerial employee, or jobsite steward. An Employee's private property may be inspected only for probable cause.

(D). Work Opportunities Mandated Testing: In all situations where an Employer is required to participate in a testing program in order to qualify as a bidder on the project, testing may occur but only if performed in accordance with these minimum standards and applied uniformly to all personnel having access to the project. There shall be no discrimination against any employee who refuses a job assignment to a project that has mandatory drug testing.

(E). Post Accident or Injury Testing: Testing may also be required after any work-related, OSHA reportable, accident or injury; or when damage to company property or other physical damage occurs on company premises, at a job site, or under other work related circumstances where human error may have been a factor.

Section 4: Payment of Screening or Testing

1. Pre-Employment and Random Screening: All costs (excluding wages and mileage) associated with the pre-employment and random screening of employees will be paid through the Drug Testing Fund.

2. Probable Cause, Work Opportunities Mandated, or Post Accident or Injury Testing: All costs associated with probable cause, work opportunities mandated, or post accident or injury testing as defined above shall be paid by the Employer and performed at the employers approved facility.

Section 5: Testing Procedures:

1. The initial test shall be an Enzyme Immunoassay (EMIT) Conformation test-Gas Chromatography/Mass Spectrometry (GC/MS) Certified test. All positive test results will be sent to a N.I.D.A. certified laboratory for confirmation. Drug testing and the chain of custody shall be conducted in accordance with the procedures of the U. S. Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs. Urine samples will be separated into two containers at the time of donations of the sample--one portion of the original urine sample shall be kept secure and chemically stable and made available for verification of laboratory testing results.

2. A "positive" drug test result shall mean test levels, on both the screening test and confirmatory test, which are recognized as positive by the U. S. Department of Health and Human Services in its Mandatory Guidelines for Federal Workplace Drug Testing Programs.

3. Any Employee or prospective employee testing positive shall, within ten (10) days, have the right to have the secured portion of his/her urine sample independently examined by a laboratory of his/her choice at his/her expense. The laboratory selected shall meet the same certification as required under this policy.

4. The Employee or prospective employee shall also have the option of having a blood test to confirm their positive test within twenty-four (24) hours of notification of a positive test.

Section 6: Test Results and Reporting Procedures:

1. The results of any positive test will not be released to any other party or agency not referenced herein unless required by law or with the written permission of the Employee or Prospective Employee. If the Employee or prospective Employee chooses to be evaluated by the MAP, results may be released to the MAP.

2. **Random Screening:** Test results will be released to the Union Representative and Employee on a confidential need to know basis.

3. **Probable Cause, Work Opportunities Mandated, or Post Accident or Injury Testing:** Test results will be released to the Employer Representative, the Union Representative, and the Employee on a confidential basis. Only the Employer's representative or the Union's designated representative will communicate a positive test result to the Employee. The Employer will select at least one, and no more than two, Designated Representatives to handle all confidential matters regarding this policy. Only the Employer's representative(s) and the employee's immediate supervisor will be informed if the Employee tests positive. Notification will be given privately and shall not be communicated to any other person who does not have a bona fide need to know.

4. Nothing in this policy is intended, nor shall it be construed, to authorize any action that is unlawful under federal or state law.

Section 7: Disciplinary Actions:

1. Workplace problems arising out of an employee's relationship with substance abuse may warrant a variety of management responses, including referral for treatment, testing, disciplinary action or termination of employment. Discipline of bargaining unit members shall be in accordance with the collective bargaining agreement and/or the rules of the Joint Apprenticeship & Training Committee when Apprentice Applicants or Apprentices are involved. Upon release from the MAP, all Employees or prospective Employees shall be bound to all of the provisions contained herein.

2. **Pre-Employment Screening:** Any person who does not successfully pass a pre-employment screen shall have his or her name removed from the out of work list, not be eligible to have their name added to the out of work list, and not be eligible for employment with any

employer signatory to this agreement until they can verify that they have successfully enrolled in and completed a program through the MAP and have provided a negative drug test.

3. Probable Cause, Work Opportunities Mandated, or Post Accident or Injury

Testing: Any Employee who has tested positive for alcohol and/or drugs will be required to enroll in and complete a program through the MAP for counseling or rehabilitation. The Employee will be suspended from work without pay. Upon submission of a work release from the MAP, the Employee may return to work if a job is available, or be referred from the out-of-work list after providing a negative drug and alcohol test. The failure of an Employee to promptly participate in testing or a search under probable cause at management's request, or should an employee's test results be positive and the employee refuses to seek rehabilitation or fails to complete a rehabilitation program, that Employee shall be terminated.

4. Drug Related Activities: An Employee who is convicted for violations of laws involving illegal drugs while on work status will be considered to be in violation of this policy and subject to any of the Disciplinary Actions contained herein. Failure of an Employee to notify his or her immediate supervisor within five (5) days after such conviction is cause for immediate termination.