

BCRC DRUG & ALCOHOL P O L I C Y

As Revised and Adopted JULY 1, 2022

PROBABLE CAUSE TESTING page 31

An Employee may be subject to Probable Cause Testing based on a reasonable suspicion to believe that the Employee has violated the BCRC Policy regarding drug and/or alcohol use that is formed by specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the Employee. Such reasonable suspicion shall be determined by the Contractor Participant Representative(s) who made the observations (e.g., an immediate supervisor, other company official of the Contractor Participant, etc.), and should be confirmed by one other supervisor whenever possible. At least one of the Contractor Participant Representatives who made the observations shall document, in writing, the incident and the probable cause basis for such testing. The documentation shall: (1) specifically detail the appearance, behavior, speech and body odors of the Employee, (2) state the location, date, time of observation, conversations, witnesses (if any), and (3) be signed by at least one of the Contractor Participant Representatives who made the observations, witnessed the incident and prepared the documentation. Such Employees may request that a Union Representative be available or present prior to any action taken by a Contractor Participant, if any, at any stage of the policy and its administration. There is no stipend for these tests. By referring an Employee for Probable Cause Testing, the Contractor Participant represents to BCRC that the Contractor Participant has complied with these policies and procedures and any other policies and procedures required by law. BCRC has no obligation to determine or confirm that the Contractor Participant has complied with such policies and procedures. In the instances of Probable Cause Testing, it is recommended, but not required, that two (2) Contractor Participants shall transport the Employee to the testing facility. The Contractor Participant must complete the BCRC Drug and Alcohol Testing Notification Form. The form must be sent to the BCRC Office via email to info@bcrcnet.com or facsimile to 219-764-9510. A copy of the notification form can be found as Attachment G at the back of this booklet. The form must be received prior to the release of any testing information.

POST-ACCIDENT / INCIDENT TESTING page 32

A Contractor Participant may require an Employee to submit to Post-Accident/Incident Testing after the Employee's involvement in or cause of an accident/incident that causes injury to the Employee or another person. The Contractor Participant may also require an Employee to submit to Post-Accident/Incident Testing when the Employee is involved in or causes an accident and/or incident which results in damage or destruction to property. Post-Accident/Incident Testing must be both a Breath Alcohol Test (BAT) and a Urine Drug Screen (UDS) and must be completed within two (2) hours of the recorded accident/incident if a BCRC testing facility is located on the job site or within four (4) hours of the recorded accident/incident if an Employee is required to go off the job site to a BCRC testing facility. Any Employee suspected of unnecessarily delaying the testing process will be considered to have refused to submit to testing. If an Employee leaves the jobsite prior to submitting to Post-Accident/Incident Testing requested by the Contractor Participant, then the Employee will be considered to have refused to submit to testing; provided, however, this provision shall

not apply if the Employee leaves the jobsite for the purpose of obtaining emergency medical treatment for the Employee or with the express authorization of the Contractor Participant and the Employee submits to such Post-Accident/Incident Testing as soon as reasonably possible under the circumstances.

In instances of Post-Accident/Incident Testing the Contractor Participant shall transport the Employee to the testing facility. It is recommended, but not required, that two (2) persons, each of whom is either a Contractor Participant Representative or a Union Representative, should accompany the Employee to the testing facility. At the option of the Contractor Participant, the Employee may be suspended pending the test result. In the event a negative test result is reported, the Employee shall be compensated for all lost time at the appropriate rate within the Collective Bargaining Agreement, straight or premium pay. When an Employee is injured in an accident and/or incident, priority must be given to the Employee's medical treatment before any consideration is given to collecting a specimen for drug and alcohol testing. Such Employees may request that a Union Representative be available or present prior to any action taken by an Employer, if any, at any stage of the policy and its administration. If an Employee is aggrieved by any action taken under this BCRC Policy and his/her complaint cannot be resolved, the complaint may, if the Employee or Union requests, be referred as a grievance under the grievance and arbitration provisions of the Employee's Collective Bargaining Agreement. In the event the matter is referred to arbitration, the arbitrator shall be bound substantively by the provision of this BCRC Policy. There is no stipend for these tests.

The following provisions apply to any Post-Accident/Incident Testing of a Reporting Employee (i.e., an Employee who reports the accident or incident), and shall limit and take precedence over any other provisions of this BCRC Policy relating to Post-Accident/Incident Testing. A Contractor Participant shall not refer a Reporting Employee for Post-Accident/Incident Testing unless the Employer has a reasonable basis for believing that drug or alcohol use by the Reporting Employee could have contributed to the injury or illness. The Contractor Participant shall consider the following factors in determining whether or not the Contractor Participant has a reasonable basis for believing that drug or alcohol use by the Reporting Employee could have contributed to the injury or illness:

- (1) Whether drug or alcohol use could have contributed to the injury or illness;
- (2) Whether the Employer is also requesting that other employees involved in the accident/incident be tested;
- (3) Whether the Employer has a heightened interest in determining if drug and/or alcohol use could have contributed to the injury or illness due to the hazardousness of the work being performed when the injury or illness occurred; and
- (4) All other relevant factors.

By referring an Employee for Post-Accident/Incident Testing, the Contractor Participant represents to BCRC that the Contractor Participant has complied with these policies and procedures and any other policies and procedures required by law. BCRC has no obligation to determine or confirm that the Contractor Participant has complied with such policies and procedures. The Contractor Participant must complete the BCRC Drug and Alcohol Testing Notification Form. The form must be sent to the BCRC Office via email to info@bcrcnet.com or facsimile to 219-764-9510. A copy of the notification form can be found as Attachment G at the back of this booklet. The form must be received prior to the release of any testing information.