



Western Partitions, Inc.
Drug-Free Workplace Policy & Administrative Rules
Montana Regional Office

Implemented 1991

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**WESTERN PARTITIONS, INC.
DRUG-FREE WORKPLACE POLICY & ADMINISTRATIVE RULES**

Montana Regional Office

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WESTERN PARTITIONS, INC. DRUG-FREE WORKPLACE POLICY

Montana Regional Office

Introduction

The nature of the construction industry requires that all employees be in a condition to perform their jobs safely and efficiently, free from any impairment caused by alcohol or drugs. Being in an industry where the responsibility and alertness of each employee is necessary in order to maintain a safe environment, **Western Partitions, Inc.** (or "WPI" or "the Company") must have a greater concern for employee alcohol and drug use than other employers. WPI and the unions with which WPI works in partnership are firmly committed to eliminating all of the problems associated with employee alcohol and drug abuse.

Both Federal and State regulations and statutes affect the way WPI addresses its goal to maintain a drug-safe workplace. Specifically, the Federal government names marijuana as a Schedule I controlled substance. Also, Montana laws (Montana Code Annotated or MCA)¹ specifically relate to the structure of "qualified" drug and alcohol testing programs, with the following key provisions:

1. Drug and alcohol testing must follow federal standards (49 CFR Part 40). This includes review of drug test results by a Medical Review Officer (MRO) before the results go to the employer.
2. Written policies and procedures must be available for review by all employees. Employees receive copies of their test reports and applicants may receive copies upon request.

WPI recognizes the need to avoid unnecessary intrusion into employee's private lives and to assure employee privacy and confidentiality to the greatest extent possible. The Company also acknowledges that some cases of substance abuse must be dealt with as illnesses requiring medical treatment, not only as personnel problems. Lastly, WPI believes that the goals of its alcohol and drug policy should include education, prevention, and rehabilitation. To achieve these objectives, Company employees who are present, or perform work, on WPI job sites in Montana must adhere to each of the following rules and regulations:

Rules

The use of alcohol or drugs by employees during working hours or on the job site or on Company property (including Company vehicles) is absolutely prohibited. Refusing to test is a violation of this policy, including failure to proceed promptly for testing when directed to do so, tampering with a test, or a documented attempt to substitute a specimen. Any employee who violates this policy may be required to undergo rehabilitation and/or may be subject to discipline under the terms of this policy and applicable collective bargaining agreements.

- a. WPI prohibits the unlawful manufacture, distribution, possession and use of controlled substances. In Montana, convictions for these activities may lead to fines (civil penalties) of up to \$50,000 and incarceration of up to 20 years. (Marijuana and marijuana products have special rules in Montana.)
- a. For the purposes of this Policy, the term "use" means consuming, possessing, selling, concealing, distributing or arranging to buy or sell, being under the influence, or reporting for duty under the influence of alcohol or drugs to any degree.
- b. The term "alcohol or drugs" means any form of alcohol and/or other intoxicating substance, including marijuana, and including legal drugs obtained illegally.
- c. The term "under the influence" means having a verified positive test.

¹ Specifically, the Workforce Drug and Alcohol Testing Act, MCA 39-2-205 through MCA 39-2-211

- d. In the event that any person taking medically authorized or prescribed drugs is to be tested for alcohol or drugs pursuant to this policy, that person must be prepared to substantiate authorization from his health care provider to use the drugs.
- e. This policy applies to all employees of the Company who are present, or perform work, on WPI job sites in Montana, including field, maintenance, sales, management, part-time (20 hours per month or more) as well as all applicants for any such position.
- f. The term "working hours" means all the time in which employees are engaged in work duties or subject to the control of the Company, and also includes scheduled breaks and travel to work or from one workplace to another.
- g. The term "Company property" means all facilities, job sites, vehicles, and equipment that are owned, leased, operated, or utilized by the Company or its employees for work-related purposes, including parking areas and driveways, as well as lockers, toolboxes, or other storage areas used by the employees. It also includes other public or private property, facilities, vehicles, and equipment located away from Company facilities if the employee is present on such property for a work-related purpose.
- h. An employee's private property, such as lunch boxes, tool boxes, back packs, purses, and the like that are brought by the employee onto Company property or used for work-related purposes, may only be inspected for reasonable suspicion (see below).
- i. Events attended voluntarily are not considered to be covered under this policy.

Consequences of Violations

Any employee who has violated this policy shall be subject to discipline. Discipline of bargaining unit members shall be in accordance with applicable collective bargaining agreements.

If a new hire fails a pre-employment test but has been working provisionally until the test results are available, the new hire is promptly removed from the job. Eligibility for return to work is conditional on a return-to-work process. Although the Company generally tries to provide a second chance in such circumstances, WPI is under no obligation to return the employee to work or to his/her previous position.

If an employee tests positive or refuses to test, he or she is promptly removed from the job. Eligibility for return to work is conditional on a return-to-work process. Although the Company generally tries to provide a second chance in such circumstances, WPI is under no obligation to return the employee to work or to his/her previous position.

Return to Work Procedure

Management requires that employees who have tested positive for alcohol or drugs or who refuse to test complete three conditions to become eligible for re-hire:

1. Evaluation by a qualified counselor,
2. Agreement to participate in education and/or counseling as recommended by the evaluator, and
3. A negative return-to-duty test.

The Company's consulting Program Administrator will monitor the return-to-work process. With recommendations from the evaluator and a negative test, the employee may be permitted to return to work at WPI's discretion if a job is available.

Reasonable Suspicion Testing

The term "reasonable suspicion" shall for the purposes of this policy be defined as specific, articulable observations concerning work performance, appearance, behavior or speech of the

employee which would cause a trained person to believe the employee may have used controlled substances or misused alcohol. Examples of observations which might lead to a reasonable suspicion determination are slurred speech, staggering, the odor of alcoholic beverage, unusual sleepiness, aggressive behavior, unusual agitation, or the presence of drugs or drug paraphernalia. These observations must be documented by a Company representative as part of a reasonable suspicion determination.

When reasonable suspicion exists that an employee is in violation of this policy, the employee shall be required by management to submit to drug and/or alcohol testing. In the event of a positive test result or refusal to test, the employee shall be required to participate in a return-to-duty process. If an employee refuses to participate in the testing as outlined in the policy or if an employee's test results are positive and the employee refuses to seek rehabilitation or completion of a rehabilitation program, that employee is subject to prompt termination.

Other Reasons for Testing

Other reasons for testing permitted under this policy, as defined in the Administrative Rules, include pre-employment, contract-required, post-accident, periodic, job site, return to duty and follow-up testing.

All new employees shall be tested within three days of hire.

Many general contractors have drug and alcohol testing policies which cover all individuals who work on the specific contractor's job site. If a general contractor has a stricter drug testing policy and requires a WPI employee to test under that policy, it will take precedence for that test. If the general contractor's policy is less strict than this policy, and if acceptable to the general contractor, then this policy will take precedence for that test.

Drug-Related Convictions

All employees must notify management of any criminal conviction for any drug-related offense occurring in the workplace, no later than five (5) days after such conviction.

Self-Referral

If an employee suspects that he/she has an alcohol or drug problem, the employee is expected to seek assistance for that problem, either from his/her union health and welfare trust, the Company Human Resources manager, or another competent resource.

Reporting Use of Medications

Use of prescribed medicine according to the healthcare provider's instructions is not a violation of this Policy. However, *it is a violation of Federal law and of this Policy to use other people's prescription medications.* It is also a violation of this Policy to use medications in a way that is not consistent with the healthcare practitioner's directions.

Employees who take prescription medications with warning labels (regarding dizziness, drowsiness, or other impairment while using the medicine) are required to:

1. Discuss use of the medicine with their doctors, given the nature of their jobs and
2. Inform Company management that they are using a medication with a warning label. Employees are not required to identify the name of the drug or the reason for using the drug.

Management may change an employee's employment status or job duties at its discretion.

Applicants and employees have the opportunity to discuss positive drug test results due to prescription medications with the Company's Medical Review Officer (MRO) before results are reported to the Company (see Administrative Rules).

Marijuana

Marijuana is currently a Schedule I controlled substance under Federal law. However, Montana law considers marijuana a lawful product. For this reason, WPI carefully considers the circumstances of positive tests for THC (the psychoactive ingredient in marijuana) before taking action regarding a prospective employee or employee who tests positive for THC.

Marijuana is an impairing drug and WPI job sites are hazardous work environments. The safety of its employees is WPI’s most important obligation. Therefore, if the use of marijuana appears to affect an employee’s ability to perform job duties, or the safety of the employee or those around him or her, then a positive test for THC has the same consequences as a positive test for any prohibited controlled substance.

Confidentiality

WPI maintains this Drug-Free Workplace program such that all information, interviews, reports, statements, memoranda and test results are considered to be confidential communications that may not be disclosed to anyone except:

1. The tested employee,
2. The designated representative of WPI (including the consulting Program Administrator), or
3. In connection with any legal or administrative claim arising out of WPI’s implementation of the Montana Workforce Drug and Alcohol Testing Act or in response to inquiries relating to a workplace accident involving death, physical injury or property damage in excess of \$1,500 when there is reason to believe that the tested employee may have caused or contributed to the accident.

While investigating a drug test result, the MRO may obtain information unrelated to the use of a controlled substance or alcohol from employees. Such information is held in strict confidentiality by the MRO and is not released to the Company.

WPI shall take reasonable measures to otherwise safeguard the privacy of employees in connection with this policy, including maintaining the confidentiality of employees who come forward to discuss alcohol or drug abuse affecting them. Any person employed by the Company who voluntarily seeks assistance or rehabilitation for alcohol or drug related problems shall be granted amnesty and discipline is waived for drug-related issues so long as the person continues to participate satisfactorily in the rehabilitation or counseling program.

Compliance with State & Federal Law

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

Amendments

Any amendments to this policy shall be the unanimous product of the Company and its partner unions, and will automatically become an amendment to the Company policy upon written notice.

Joint Labor-Management Governance

This policy is governed under joint labor management committee administrative rules. The parties to the agreement reserve the right to change the administrative rules and/or the policy through the joint labor management process. In addition, the grievance procedures outlined in applicable collective bargaining agreements are available to all collective bargaining employees who may have a complaint in regard to the policy and/or administrative rules. Non-collective bargaining personnel shall be subject to internal company discipline procedures. This policy and the administrative rules are subject to and subordinate to applicable collective bargaining agreements.

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WESTERN PARTITIONS, INC. DRUG-FREE WORKPLACE

ADMINISTRATIVE RULES

Montana Regional Office

Consulting Program Administrator

The consulting Program Administrator shall be an objective third party which has responsibility for managing the technical aspects of testing under this policy and for overseeing the return-to-duty process. The current consulting Program Administrator is:

Northwest Drug-Safe
1049 SW Baseline St Suite C325
Hillsboro OR 97123-3848
503-297-4113 • Toll-free 866-538-4788 • FAX 503-297-4748

Collections

"Split specimen" collections will be performed using procedures consistent with 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

In the split specimen collection procedure, a urine specimen is divided or "split" between two shipping bottles, both of which are transported to the testing laboratory. If the results of the initial screening and confirmation tests of the "primary" specimen are positive, the split specimen may be tested at another qualified laboratory. The cost of the split specimen testing is paid by WPI if the split test result is negative and by the tested individual if the split test result remains the same.

Laboratory

Drug testing is performed by a laboratory certified by the Substance Abuse & Mental Health Services Administration (SAMHSA) of the US Department of Health and Human Services (DHHS). The current primary laboratory is:

Legacy Laboratory Services Telephone 503-413-5200
1225 NE 2nd Avenue
Portland OR 97232

Other SAMHSA / DHHS-certified laboratories may be used as needed to ensure rapid turnaround of test results.

Testing

Initial and confirmatory test cutoff levels in urine for the drug classes tested under the WPI Drug-Free Workplace Policy & Administrative Rules will follow US Department of Transportation guidelines (49 CFR Part 40 as amended), as shown on the last page of this document.

Dilute urine specimens (creatinine <20 g/L, specific gravity < 1.003) are considered unacceptable. A written protocol describing the procedures for recollection is available upon request.

In Montana, the Company uses breath sampling to test for alcohol. For breath alcohol testing, the testing cutoff is 0.02 g/210 L for both initial and confirmatory testing, but only results of greater than 0.04 g/210 L give rise to disciplinary consequences.

Covered Employees

All WPI employees in Montana who are present, or perform work, on WPI job sites are covered by this policy, including field, maintenance, sales, management, part-time (20 hours per month or more) as well as all applicants for any such position.

Reasons for Testing

- a. Reasonable suspicion: If there is reasonable suspicion, as defined in the policy, to believe that an employee is in violation of the policy, the employee shall be required to submit to drug and/or alcohol testing. The employee will be transported to the collection site to provide specimens or a collector may come to the job site. After the employee provides specimens, management will arrange for safe transportation to the employee's residence. The employee will be off duty until the test results are received. This time will be paid if all test results are negative and unpaid if test results are positive or constitute refusal to test.
- b. Pre-employment: All new employees shall be tested within three days of hire.
- c. Contract-required testing: Some general contractors have drug and alcohol testing policies which cover all individuals who work on the specific contractor's job site. WPI conducts testing when it is required as a condition of a contract.
- d. Post-accident: Involvement in a workplace accident involving death, physical injury or property damage in excess of \$1,500 may require testing. Management will document the circumstances of each accident individually. If there is reason to believe that the employee may have caused or contributed to the accident, post-accident testing will be conducted. If the employee's actions or inactions can be completely discounted as a contributing factor to the accident, no testing will be conducted.
- e. Return to duty: After positive tests or refusal to test, employees must test negative in order to return to work.
- f. Follow-up: After positive tests or refusal to test, employees are subject to unannounced tests in addition to other reasons for testing, not to exceed 4 tests during the 12 months after return to work. Agreement to undergo such testing is a condition of employment after a violation.

Time Constraints for Testing

Employees are expected to proceed directly to an authorized collection site when directed to test by a Company official. Supervisors must notify employees of selection for random testing no later than two hours before the end of the work shift. Employees will be paid for one hour to take the test.

Refusal to Test

Refusal to test will have the same consequences as a verified positive test result. Refusals to test include refusal to provide the required sample, refusal to cooperate with the testing process, provision of an invalid specimen without a medical explanation (as determined by the Medical Review Officer), or adulteration or substitution of a urine sample.

Positive Test Results/Refusals/Medical Review

Laboratory test results are transmitted to the Medical Review Officer (MRO). The MRO is a physician with special expertise and training in evaluating drug test results. For positive tests, the MRO or his/her designated representative attempts to contact applicants/employees confidentially, using the telephone number provided on the drug testing custody and control form. If the MRO is unable to establish contact within three (3) business days after receiving a positive test result from the lab, the MRO contacts the consulting Program Administrator, who asks the Designated Employer Representative to arrange a confidential conversation between the tested individual and the MRO.

The MRO conducts an interview to determine if the positive test result was due to use of prescription medication by the person for whom it was prescribed (authorized use of a controlled substance). The MRO may report the test as NEGATIVE with confirmation of a valid prescription by the health care provider or pharmacy.

If a positive test result is due to use of prohibited drugs or use of prescription medications without a valid prescription, the MRO verifies the test as POSITIVE. The MRO staff then promptly notifies the consulting Program Administrator, who in turn notifies the Company. If a positive test involves use of a prescription medication but not according to the healthcare provider's written directions, the MRO may report such use to the Company.

If the MRO expresses a safety concern regarding an employee's use of an impairing medication, the MRO shall report this concern to the Company.

A documented attempt to tamper with a test or to substitute a specimen is considered a refusal to test. Adulteration or substitution of a specimen is considered refusal to test and is reported by the laboratory only with firm scientific evidence. If the laboratory determines that a specimen is invalid because it does not contain appropriate amounts of any substance normally found in urine, then the test will be treated as an adulterated/substituted specimen after review by the MRO.

Return to Work Process

When the Company receives notification of a verified positive test result or refusal to test, the Company promptly removes the employee from work in a confidential manner. The employee's employment is suspended or terminated based on job-related factors as documented by one or more WPI managers. When return to work is offered, WPI requires that the employee complete three conditions to become eligible for re-hire:

1. Evaluation by a qualified counselor,
2. Agreement to participate in education and/or counseling as recommended by the evaluator, and
3. A negative return-to-duty test.

The Company's consulting Program Administrator monitors the return-to-work process. It is the employee's responsibility to schedule an evaluation appointment with a licensed or certified counselor and to authorize the evaluator to communicate with the consulting Program Administrator.

The employee must agree to follow the counselor's recommendations as a condition of return to work. This may include an educational program or substance abuse treatment. Some or all of the expense of the education or treatment may be covered by the employee's health benefits; however, it will be the employee's responsibility to arrange for payment.

The WPI Drug-Free Workplace Program will pay for one return-to-duty test. If a return-to-duty test is verified as positive, the employee must pay in advance for any subsequent return-to-duty tests.

Completion of the return-to-work process is a necessary condition for return to work, but it does not guarantee re-hire. The employee may be permitted to return to work at WPI's discretion if a job is available.

Appeal

When notified of a verified positive test result, the Company representative informs the employee that he or she has the right to have the urine sample independently examined by a DHHS-certified laboratory of his or her choice, at his or her expense, within 30 days.

Records

A statement regarding confidentiality in the Drug-Free Workplace program is found on page 4 of this document.

Test results and information relating to evaluation, education and substance abuse treatment will be retained in secure and confidential files. WPI expects all concerned parties to release information concerning the Drug-Free Workplace Program only to authorized parties with a need to know, or with specific written authorization from the tested individual.

Testing Panel/Cutoffs

Initial test analyte	Initial test cutoff ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA ¹	15 ng/mL
Cocaine metabolite (Benzoyllecgonine)....	150 ng/mL ³	Benzoyllecgonine.....	100 ng/mL
Opioids			
Codeine/Morphine.....	2000 ng/mL.....	Codeine.....	2000 ng/mL
		Morphine.....	2000 ng/mL
Hydrocodone/Hydromorphone.....	300 ng/mL.....	Hydrocodone.....	100 ng/mL
		Hydromorphone.....	100 ng/mL
Oxycodone/Oxymorphone.....	100 ng/mL.....	Oxycodone.....	100 ng/mL
		Oxymorphone	100 ng/mL
6–Acetylmorphine.....	10 ng/mL.....	6–Acetylmorphine.....	10 ng/mL
Phencyclidine.....	25 ng/mL.....	Phencyclidine.....	25 ng/mL
Amphetamines			
Amphetamine/Methamphetamine.....	500 ng/mL.....	Amphetamine.....	250 ng/mL
		Methamphetamine.....	250 ng/mL
MDMA ⁴ /MDA ⁵	500 ng/mL.....	MDMA.....	250 ng/mL
		MDA.....	250 ng/mL

¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ *Alternate technology* (THCA and Benzoyllecgonine): When using an alternate technology initial test for the specific target analytes of THCA and Benzoyllecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoyllecgonine).

⁴ Methylenedioxyamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).