

CANADIAN PACIFIC (CANADA)

SUBSTANCE TESTING POLICY

FOR SAFETY CRITICAL AND SAFETY SENSITIVE POSITIONS

1. INTRODUCTION

- 1.1 This policy outlines practices and procedures that govern substance testing. This policy will constitute an integral part of ensuring that railway operations are carried out in the safest possible fashion.
- 1.2 Employees with substance abuse problems are encouraged to contact the Employee and Family Assistance Program (EFAP) which is designed to provide employees, pensioners and family members with timely and confidential problem assessment services, and referrals for diagnosis and professional help with personal problems where required, including substance abuse or dependence. Employees in need can consult the EFAP about substance abuse by calling the nearest EFAP Referral Agent toll free at 1-800-735-0286. Information about the Company substance abuse policy can be found in the Personnel and Administration Manual, under policy # 1800.

2. POLICY STATEMENT

- 2.1 Canadian Pacific (CP) is committed to the safety and health of our employees and the public where they are impacted by our operations. Substances, including alcohol, illegal and illicit drugs and medications have the potential to impair a person's ability to safely perform their job which could result in serious adverse effects on employees, co-workers, the public and the company as a whole. The aim of this policy is to minimize a potential risk of impaired performance due to inappropriate substance use. **Substance testing under this policy is part of a broader program of medical assessment, monitoring and support.**

3. SCOPE AND APPLICATION

- 3.1 This policy applies to all employees and contractors of CP and its subsidiaries in Canada who occupy safety critical and safety sensitive positions.
- 3.2 Canadian based employees who are required to operate into the United States are subject to the rules and regulations governing cross-border operations.

4. DEFINITIONS

The following definitions apply to this policy.

Alcohol in this policy refers to the intoxicating agent in beverage alcohol (e.g., wine, beer, distilled spirits and similar products), ethyl alcohol, or other low molecular weight alcohols, including methyl and isopropyl alcohol. This includes alcohol that may be contained in other liquids, such as 'de-alcoholized' (0.5%) beer, mouthwash, cough syrups and other medications.

Alcoholic Beverage refers to the beverages regulated by provincial liquor control legislation (e.g., wine, beer, distilled spirits and similar products).

Company refers to Canadian Pacific and its wholly owned subsidiaries.

Drug includes illegal drug, illicit drug and medication, the use of which has the potential to change or adversely affect the way a person thinks, feels or acts. For the purposes of this policy, drugs of concern are those that may inhibit an employee's ability to perform their job safely and meet performance expectations.

Illegal drug means any substance which is legally obtainable but has not been legally obtained (e.g., sedatives or narcotics for which a prescription should have been obtained).

Illicit drug means any substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law (e.g., street drugs such as marijuana and cocaine).

Medication means any drug or substance used for medicinal purposes that has been appropriately prescribed by a physician or purchased on an over-the-counter basis.

Negative Test Result is a substance test result which verifies that a substance is either not detected or is below established cutoff levels according to accredited substance testing procedures.

Positive Test Result is a substance test result which verifies the presence of a substance at or above established cutoff levels according to accredited substance testing procedures.

Safety Critical Positions are railway positions directly engaged in the operation of trains, including rail traffic control. These positions have a direct role in railway operations where impaired performance could result in a significant incident affecting the health and safety of employees, customers, customer's employees, the public, property or the environment. Safety critical positions are listed at Appendix A of the Fitness to Work Medical Policy for Safety Critical and Safety Sensitive Positions CP (Canada) and are reviewed periodically to reflect any changes in job function. All

persons who may perform any of these functions are deemed to hold safety critical positions.

Safety Sensitive Positions are railway positions where impaired performance may put public safety at occasional risk as well as put at risk the safety of employees, customers, customer's employees, property or the environment. Safety sensitive positions are listed at Appendix B of the Fitness to Work Medical Policy for Safety Critical and Safety Sensitive Positions CPR Canada and are reviewed periodically to reflect any changes in job function. All persons who may perform any of these functions are deemed to hold safety sensitive positions.

Substance includes alcohol, illegal drugs, illicit drugs, and medication, the use of which has the potential to change or adversely affect the way a person thinks, feels or acts. For the purposes of this policy, substances of concern are those that may inhibit an employee's ability to perform their job safely and meet performance expectations.

Substance abuse includes the continued use of alcohol or drugs despite the knowledge of recurring disturbance in health, work or social functioning.

Substance dependence involves a physical or psychological dependence on alcohol and/or drugs.

Substance test is a standardized urine drug or alcohol screen test to assess levels of drugs (which include cannabinoids, cocaine, phencyclidine, opiates and amphetamines) or alcohol and/or a standardized alcohol breathalyzer test to assess levels of alcohol in the body.

5. METHODS OF TESTING

5.1 Substance testing consists of three processes:

Sample (breath for alcohol and urine for drugs) collection is done under controlled conditions at a designated collection site by trained and authorized personnel of an agency specified by the company which ensures privacy during collection as well as the security and integrity of the sample. Urine collection is done using a split sample procedure following the North American recognized standards of the United States Department of Transportation (U.S. DOT 49 CFR Part 40). Chain of custody documentation follows the sample throughout the process. **Point of Collection Tests (POCTs) may be considered for pre-employment / pre-placement substance testing in order to expedite the hiring process related to the medical assessment. POCTs may also be considered for post accident / incident substance testing in order to expedite the return to duty of an individual with a negative test result.**

Laboratory analysis is done by qualified laboratories meeting established guidelines and certification.

Medical review is performed by a Medical Review Officer, who is a qualified licenced physician acting as an independent and impartial reviewer of the substance test results.

- 5.2 Employees, contractors and potential employees taking substance tests will be required to sign a consent form authorizing the testing laboratory to release test results to the Chief Medical Officer, who is the designated employer representative. Test results will be released by the Chief Medical Officer as either a negative or positive test result. **Negative POCT test results, and any breath alcohol test result related to a 'post accident / incident' substance test, may be released directly to the supervisor by the collector/technician.**
- 5.3 A substance test for alcohol will usually be accomplished using a breathalyzer that is equipped to reflect an immediate blood alcohol level using a breath sample. Breathalyzers must only be operated by a person who is certified to operate the device. If breathalyzer collection is not possible then urine collection will be done.
- 5.4 Management will not be involved with the chain of custody of a substance test sample. Management is responsible to make all necessary arrangements for 'for cause' and 'post accident / incident' substance testing including transportation of the individual to and from the test location. Management will ensure the individual is not left unattended from the time of notification of a 'for cause' or 'post accident / incident' substance test until under supervision of the testing personnel.

6. PRE-EMPLOYMENT / PRE-PLACEMENT SUBSTANCE TESTS

- 6.1 Candidates for safety critical and safety sensitive positions will, as part of an overall medical assessment, be required to submit to a drug test arranged as per Appendix A.
- 6.2 The drug test referred to in paragraph 6.1 forms part of the pre-employment / pre-placement medical assessment. A substance test will not be used as an initial screening instrument and should not take place before determining that the candidate has all other qualifications necessary to fill the position. A safety critical or safety sensitive position must be offered to the candidate prior to the medical assessment.
- 6.3 Candidates with a positive drug test and/or a history of recent substance use/abuse may require further medical assessment to determine if substance use/abuse may be a potential safety concern. Ultimately, a negative drug test

result is a condition of employment for safety critical and safety sensitive positions.

- 6.4 The Chief Medical Officer will advise appropriate management whether a candidate is either fit or unfit for the desired position. Substance test results or other reasons that may preclude an employee from occupying a safety critical or safety sensitive position will be handled on a confidential basis.

7. FOR CAUSE SUBSTANCE TESTING

- 7.1 The company may request that individuals occupying a safety critical or safety sensitive position submit to a 'for cause' substance test when there is reasonable cause to believe an individual is unfit to perform their duties due to adverse effects of substance use while on or subject to duty. Such tests would be arranged as per Appendix A.

- 7.2 "Reasonable cause" must be supported by independent evidence, which may include such observations as:

- the physical appearance of the individual
- the behaviour of the individual
- the speech patterns of the individual
- breath odor of the individual
- observed use of a substance
- possession of a substance
- an event or chain of events suggesting reckless, irrational, and/or dangerous behaviour.

- 7.3 In all cases of 'for cause' substance testing the individual(s) involved will be removed from service pending the results of an investigation.

8. POST ACCIDENT / INCIDENT SUBSTANCE TESTING

- 8.1 The company may request that individuals occupying a safety critical or safety sensitive position submit to a 'post accident / incident' substance test following a significant accident or incident, which may include a near miss, cardinal rule violation and/or an individual's judgment, after an experienced operating officer has considered the circumstances.

- 8.2 Such test would not be justified in situations where there is evidence that the act or omission of the individual could not have been a contributing factor to the accident / incident (e.g., structural or mechanical failure, or individual clearly not involved in the situation).

- 8.3 Individuals undergoing a 'post accident / incident' substance test will be removed from service pending the results of the substance test.

9. UNANNOUNCED SUBSTANCE TESTING

- 9.1 An individual may be required to participate in an unannounced substance testing program for a defined period of time under the following circumstances:

(a) as a condition of return to work directed by OHS, or

(b) as a condition of reinstatement. In the case of a unionized employee, this will be further to an agreement between Labour Relations and the relevant union. Under exceptional circumstances, this may also apply in the case of individuals who were not occupying safety critical or safety sensitive positions.

- 9.2 Unannounced substance testing is only permissible following the disclosure of a current drug or alcohol dependency or abuse problem, must be tailored to individual circumstances and must be part of a broader program of monitoring, rehabilitation and support. Such program will be managed by the Chief Medical Officer with all tests administered through a medical services provider.

- 9.3 Individuals who test positive following a return to work directed by OHS, will be deemed to be medically unfit and will be managed by Occupational Health Services as part of the Return to Work Program.

- 9.4 Individuals who test positive further to a reinstatement, will be administratively removed from service and a formal investigation will be conducted.

10. TESTING VIOLATIONS

- 10.1 Individuals cannot be forced by management to submit to a 'for cause' or 'post-accident / incident' substance test. Refusal to submit should be witnessed and documented by management. Such documentation should also include identification of any other witnesses present, and observations / information noted in paragraph 7.2.

- 10.2 Where an individual fails to report for a test, refuses to submit to a test, or attempts to tamper with a test sample, that individual will be removed from service pending the results of an investigation. This investigation may lead to corrective action measures up to and including dismissal.

**APPENDIX A
ARRANGEMENTS TO SCHEDULE A SUBSTANCE TEST**

1. Pre-Employment / Pre-Placement

1.1 All pre-employment and pre-placement substance tests are to be arranged by Occupational Health Services (OHS) as part of the pre-employment / pre-placement medical assessment process.

2. For Cause, Post Accident / Incident

2.1 The supervisor of the individual to be subjected to 'For Cause' or 'Post Accident / Incident' testing should contact CP's preferred service provider directly after the individual has consented to the substance test.

2.2 CP's preferred service provider for such tests is **DriverCheck** . They can be reached on a 24-hour basis at **1-800-463-4310**.

2.3 The supervisor of the individual to be tested is to advise DriverCheck of the name and location of the individual. DriverCheck shall, as soon as possible (within one hour) after receiving the call from CP, advise the CP supervisor of:

- The location of the nearest off-site collection location where the individual can provide a sample and the time at which such sample can be taken.
- The approximate time it will take for a trained technician to arrive at the location for the purpose of an on-site collection.

2.4 Upon receiving the advice referred to in paragraph 2.3, the CP supervisor shall advise DriverCheck whether an on-site collection is required or whether the individual will attend (accompanied by the supervisor) at the nearest off-site collection location identified by DriverCheck.

2.5 DriverCheck shall arrange for the appropriate collection based on the request from the CP supervisor. **Point of Collection Tests (POCTs) may be considered for post accident / incident substance testing in order to expedite the early return to duty for an individual with a negative test result.** The supervisor will not be involved with the chain of custody of a substance test sample. The supervisor is responsible to make all necessary arrangements including transportation of the individual to and from the test location. The supervisor will ensure the individual is not left unattended from the time of notification of a substance test until under supervision of the testing personnel.

2.6 As soon as possible after the test is completed, the supervisor involved shall advise OHS of the location, name of the individual and reason for testing. OHS

will advise the supervisor of the results of the substance test as soon as possible after they are received. Negative POCT test results, and any breath alcohol test result related to a 'post accident / incident' substance test, may be released directly to the supervisor by the collector/technician.

3. Unannounced

- 3.1 Unannounced substance testing for a defined period of time may be required as a condition of return to work or reinstatement. These tests will be arranged by OHS as part of the unannounced substance testing program.

QUICK TIPS - 'POST ACCIDENT / INCIDENT' SUBSTANCE TESTING
CANADA ONLY

Individuals occupying a safety critical or safety sensitive position may be requested to submit to a 'post accident / incident' substance test following a significant accident or incident, which may include a near miss, cardinal rule violation and/or an individual's judgment.

1. Determine whether there is evidence to suggest the act or omission of the individual could have been a contributing factor to the accident / incident. If not, then testing should not be considered (e.g., structural or mechanical failure, or individual clearly not involved in the situation).
2. Determine which individual(s) may have been reasonably involved in, or may have contributed to, the accident / incident.
3. Before requesting a substance test, the circumstances of the accident / incident must be reviewed with an experienced operating officer (e.g., SMI or higher) who will then decide if such a test should be done.
4. An individual cannot be forced to submit to a substance test. Refusal to submit should be witnessed and documented by management. The individual will be removed from service pending the results of an investigation.
5. The individual(s) undergoing a 'post accident / incident' substance test will be removed from service pending the results of the test.
6. If an individual agrees to submit to a substance test, the Supervisor calls DriverCheck at the 24-hour toll free hotline at 1-800-463-4310, requests a 'post accident / incident' substance test and provides the following:
 - Location of the individual;
 - Name of the Supervisor and contact telephone number;
 - Type of test (drug and alcohol) -
 - 5-panel drug test by urine sample; and
 - Breath alcohol test (urine sample only if breathalyzer is not available).
7. DriverCheck will advise the Supervisor within one hour of:
 - Location of the nearest collection site and the time at which such sample can be taken;
 - The approximate time it will take a technician to travel to the site.
8. The Supervisor MUST:
 - Confirm with DriverCheck the location of the collector;
 - Accompany the individual to and from the testing location;
 - Never leave the individual unattended prior to the test;
 - Not participate in the collection or chain of custody.
9. The individual should present picture identification to the testing technician. If no identification is available, the Supervisor may identify the individual.
10. The technician will conduct a Point of Collection Test (POCT). The Supervisor will not participate in this process. The Supervisor will be informed by the technician if the test is negative OR non-negative. If the test is non-negative then the collector will forward the urine sample and related Chain of Custody documentation to our contracted service provider for analysis. Reasons for a non-negative POCT are NOT to be released to the Supervisor. The technician Drug test results will then be forwarded to the Chief Medical Officer.
11. Do NOT assume that a POCT urine drug test that is non-negative is a positive test.
12. Breath alcohol results will be released by the technician to the Supervisor as either negative OR positive. Actual quantitative values (e.g., 0.04) are NOT to be released to the Supervisor. The testing technician will forward these results directly to DriverCheck, who will then forward the results to OHS.
13. As soon as possible after testing, the Supervisor shall advise OHS of the location and name of the individual(s) tested and the results that were provided by the technician.
14. OHS will advise the Supervisor of the results of the substance test in writing (generally non-negative POCT drug tests within 5 to 10 days).
15. In cases of an individual having a negative POCT drug test AND a negative breath alcohol test, the Supervisor may consider an early return to work.

Q&A - 'POST ACCIDENT / INCIDENT' SUBSTANCE TESTING
CANADA ONLY

- When can I order a 'post accident / incident' substance test?
 Following a significant accident or incident, which may include a near miss, cardinal rule violation and/or an individual's judgment. There must be reasonable evidence to suggest that the act or omission of the individual could have been a contributing factor.
- What types of accidents or incidents may be considered significant enough for substance testing?
 The real or potential seriousness of the accident or incident must be considered. For example, a minor personal injury that could be contributed to a clear cause would not likely trigger a request for a substance test (e.g., cut finger on a sharp object, slip and fall on icy surface). Nor would situations where an individual was clearly not involved in the situation or if structural or mechanical failure were obvious causative factors.
- Can my supervisor make the decision to order a post accident / incident substance test?
 No. A decision to order a post accident / incident substance test should be made only after an experienced operating officer (e.g., SMI/steering or higher) has considered the circumstances.
- How do I arrange for a 'post accident / incident' substance test?
 Refer to the Quick Tips for ordering a 'Post Accident / Incident' Substance Test. DriverCheck has a toll free number that is available 24 hours a day. The number is 1-800-463-4310. This test should include BOTH alcohol and drug.
- Should all the individuals in the general area of the accident / incident be tested?
 No. In assessing the circumstances, only those individuals who may have been reasonably involved in, or may have contributed to, the accident / incident should be considered for testing.
- What is different about a Point of Collection Test (POCT)?
 A POCT is done right away at the collection location by the technician. A POCT provides a rapid negative test result. The technician will inform the Supervisor if the test is negative OR non-negative.
- Can a Point of Collection Test (POCT) be done at any site?
 No. Some sites do not have POCT equipment and/or a technician trained to conduct a POCT. In those locations, the technician will forward the urine sample and related Chain of Custody documentation to our contracted service provider for analysis.
- Does a non-negative POCT imply the test is positive?
 No. There may be several reasons for a POCT to be non-negative which requires the sample to be sent for further analysis (e.g., legitimate prescribed medication(s), false-positive, abnormal urine characteristics). The reasons for a non-negative are NOT to be released to the Supervisor.
- Will the technician be able to inform the Supervisor of the results of a breath alcohol test?
 Yes. The breath alcohol results will be released by the technician as either negative OR positive. Quantitative results (e.g., 0.06) will NOT be released to the Supervisor.
- When can the individual(s) return to duty after a 'post accident / incident' substance test?
 Any individual with a negative POCT drug test AND a negative alcohol test as reported by the technician doing the test may return to duty at the discretion of the Supervisor. Individuals with a non-negative drug test will not be considered for a return to duty until the results are provided to the Supervisor by OHS.