

# INDUSTRY UPDATE: ALCOHOL AND DRUG POLICY IMPLEMENTATION IN FORESTRY

By Barb Butler



Photo: iStock

Many Canadian organizations in a wide variety of industry sectors are concerned about alcohol and drug use patterns and the need to take appropriate steps to deal with employees who may be impaired on the job. They are implementing comprehensive policies and are supplementing their approach with alcohol and drug testing under certain circumstances.

Properly addressing alcohol and drug issues is certainly a concern for the forestry industry. Although the use and abuse of alcohol remains an issue in workplaces across the country, the increasing availability and use of illicit drugs—including synthetics—and the abuse of opiate based products (oxycodone, fentanyl and heroin) have become a challenge for all industries. And although there has been ready access to marijuana through medical authorization since April 2014 and potential legalization is on the horizon, this does not mean use is acceptable in conjunction with safety-sensitive work.

Employers can face liabilities associated with the actions of impaired employees at work, have due diligence responsibility around workplace safety, must take action in response to possession or trafficking of illicit drugs, and have the duty to accommodate those with a chemical dependency in accordance with human rights provisions.

Whether any of these products are legal or illegal, they can still impact fitness for work. Therefore employers should be taking all responsible steps to set clear policies for all employees that reinforce the requirement to report fit

and remain fit through their workday or shift. This means being free of any negative effects associated with alcohol or other drug use. These requirements are normally also set out for those they contract with through a separate document setting out direction to all contractors. Court and arbitration rulings have confirmed employers do not need “proof” of a problem before taking proactive steps in this area to ensure workplace and public safety by issuing comprehensive policies and including testing under certain circumstances.

Therefore, the question many employers ask is whether they can in fact introduce alcohol and drug testing in their workplace. What has become clear in the various rulings is Canadian companies cannot simply implement a testing program or policy. Testing may play a role as an investigation tool or deterrence tool, but must be part of a broader approach that includes the following:

## Canadian companies cannot simply implement a testing program or policy.

1. Awareness and education programs, both at policy introduction and ongoing.
2. Access to assistance, through an internal or contracted employee assistance program or, as appropriate, community resources, as well as assessment services through qualified substance abuse professionals/experts.
3. Training for supervisors on their role under the policy, including per-

formance management and appropriate steps to take to investigate a possible policy violation.

4. A variety of tools that can be used to investigate if someone may be in violation of the policy. (e.g. investigation and escort procedures if someone is unfit for work, accident investigation, impaired driving situations, searches, alcohol and drug testing).

The policy itself should be written down and clearly communicated to employees. It should outline the applicable rules around alcohol and drug use and possession, responsible medication use and expectations associated with on call and unexpected call in situations. It should also include any higher standards for risk- or safety-sensitive positions. As well, the consequences for a violation should be set out, including any conditions for continued employment.

With respect to alcohol and drug testing, decisions are needed on which circumstances testing will be introduced, and the technology that will be used. Testing has been introduced in safety-sensitive industries in the following situations:

- as part of an investigation in an

unfit for duty (reasonable cause) situation where there is evidence alcohol or drug use may be a contributing factor;

- as part of a full investigation into an accident/incident situation, without reasonable cause, provided testing is only for those whose acts or omissions contributed to the situation;

- as part of a monitoring program after treatment to support continued

recovery, normally on the advice of a substance abuse professional or treatment program;

- as a condition of return to duty after a policy violation and on an on-going follow-up basis (unannounced); and
- as a condition of qualification to a higher risk position for new hires and existing employees applying for to the position when they currently hold a non-sensitive position with the company.

On high risk job sites, contractors are increasingly being required to ensure their representatives pass a site access test prior to performing safety-sensitive work on the site. This has been found acceptable in most provinces except Ontario. Rulings in Canada have limited random testing to safety-sensitive positions, however in a union workplace the Supreme Court has ruled there needs to be established proof of a problem before it can be introduced (Irving Pulp and Paper). A number of cases before the courts and arbitrators are examining what that threshold should be.

The testing procedures that have been implemented in Canada, for the most part, mirror those developed in the US governing Canadian cross-border truck and bus drivers. Canadian laboratories have been accredited directly by the US Department of Health and Human Services to provide accurate sample analysis services. Historically, the standard practice has been

- to collect a urine sample for analysis in a certified laboratory with the core testing panel of marijuana, opiates, amphetamines (including methamphetamine and ecstasy), phencyclidine (PCP), and cocaine, although protocols can be set up to expand this core slate, particularly in a post treatment situation; and
- to use a calibrated breath analyzer for alcohol testing, although in remote situations, alternative technology may be required where a breath machine is not readily available.

This is supported by:

- a comprehensive network of trained

collection facilities established across Canada to meet 'cross border' motor carrier needs; collection capability has expanded further as there is more demand throughout the country;

- a Canadian lab in London, Ontario which is certified to provide fully accurate testing services for Canadian companies; the company has also introduced an approved screening lab in Edmonton in order to expedite the screening process; and
- a number of Canadian physicians who have had the appropriate training to be certified as medical review officers (MRO)—an essential part of any workplace testing program as the MRO contacts the employee to determine if there are legitimate medical reasons to overturn the lab result.

As such, an infrastructure has been established, and companies exploring the option of including testing under their policy can be assured of reliable and accurate results—provided they used qualified and experienced service providers. Normally this is managed by a third party administrator (TPA) which provides all of the necessary services under one package. This is a case of buyer beware, though.

Unfortunately, product manufacturers with quick and cheap solutions, unqualified collectors, doctors claiming to be qualified medical review officers (MROs) who are not, and non-certified labs have shown up and started promoting their services. In the absence of any government standards, employers have been at the mercy of product promoters; without asking the right questions, some companies have ended up with highly ineffective programs, or programs that would not be defensible if challenged.

Other technologies have also been introduced:

- "On site" or "point of collection" urine drug testing screens are increasingly being used for reasonable cause and post incident testing, particularly where there are concerns about turnaround times because of distance from the lab. The process is the same as would be followed for standard lab

urinalysis, except the first stage immunoassay screen is performed at the collection site.

- Oral fluid (saliva) samples are being increasingly used to test for drug presence, primarily in random testing situations and this technology is being looked at as an alternative to use in other testing circumstances (reasonable cause/post incident); the technology tightens the window of detection from what is found with a urine sample, particularly for marijuana presence. However, there are no accurate on-site/point-of-collection oral fluid drug tests available at this time.

- At all stages in the process steps are in place to check for adulteration or substitution of the sample so policies should be clear on the consequences if this is confirmed.

A number of the larger forestry companies in British Columbia have introduced comprehensive policies for their employees that include testing in the circumstances noted in this article except random testing. They are also setting out specific requirements to their contractors when working on their sites or on their behalf which includes testing under specific circumstances as well. This approach is certainly in place in many other industries including transportation, oil and gas, manufacturing, mining and utilities. The BC Forest Safety Council is taking steps to support the industry in moving forward with policies. This includes providing a resource package on their website, as well as information on policy development through a webinar last December and ongoing as needed by the industry. Further information can be found on their website. [www.bcforestsafesafe.org](http://www.bcforestsafesafe.org) ♣

---

*Barbara Butler, BES, MBA is the president of Barbara Butler & Associates Inc. Management Consultants and specializes in workplace alcohol and drug policy and programs. She can be reached at [barb@butlerconsultants.com](mailto:barb@butlerconsultants.com).*