

January 20, 2016

DARRP  
C/O 207, 2725 -12th St. NE  
Calgary, AB  
T2E 7J2

Dear Mr. Jason Churchill,

Thank you for the opportunity to comment on the draft regulation REGDOC-2.2.4, Fitness for Duty.

The Drug and Alcohol Risk Reduction Pilot Project (DARRP) involves Alberta labour and oil sands companies, working together to reduce safety risks. One of the ways these risks are reduced is by implementing comprehensive alcohol and drug testing programs for all workers and random testing for workers in safety sensitive positions.

We are pleased to provide you with our comments and recommendations around the Canadian Nuclear Safety Commission (CNSC) implementing fitness for work requirements. As experienced operators and labour providers we believe we have in depth knowledge of this issue that will assist you going forward.

Overall, DARRP participants are supportive of organizations such as the CNSC implementing initiatives such as 2.2.4 Fitness for Duty. We know that workers who are not fit for work can introduce significant safety risks into our complex workplaces.

We support the regulations outlined for safety sensitive workers, which includes the provision for medicals, EAP support, and A&D testing for pre-placement, for cause, following an incident, follow up after treatment, and on a random basis. Our current industry practices are generally consistent with these draft regulations. In addition we are attempting to add random testing for safety sensitive positions into our programs. At present, some Alberta Building Trades members currently employ random testing on a voluntary basis.

We'd also like to provide recommendations for changes to the draft and comment on practices recommended for the broader worker population in your industry.

As currently drafted there it appears that the broader industry population would not be subject to any A&D testing, or at a minimum, this would not be a formal requirement, based on the current wording in section 3, Programmatic Elements Applicable to the Broad Population and section 5 Processes to Assess, Test and Monitor Safety-sensitive Positions.

Many of the DARRP participants have had alcohol and drug policies in place for decades, which typically include pre-placement, post incident, testing for cause, and follow up testing as part of a return to work plan and all of these have applied to all employees. In particular, please consider whether flexibility is required for post incident, for cause and follow up testing to apply to all employees, as you indicate that the broader employee population is in a risk sensitive work environment.

We recommend a review to the draft that would reconsider sections 3 Programmatic Elements Applicable to the Broader Population and 5 Processes to Assess, Test and Monitor Safety-sensitive Positions that would address situations such as:

1. You could have an incident which involves workers who are safety sensitive and workers who are not. Although not all workers involved in an incident are always tested, it would not seem reasonable to exclude those who are not safety sensitive solely for that reason.
2. If a worker who is risk sensitive meets the criteria for testing for cause, your regulations ought to ensure they will be tested.
3. Many of the oil sands companies have worked hard to make it clear to workers that the workplace must be free of alcohol and illicit drugs and free of all workers under the influence of these substances.
4. It is not clear how supervision and management would be categorized regarding safety sensitive positions but it is important that supervision and management are examples to others and given that they are responsible for decisions and policy application, that the policy apply to them as well.

DARRP also recommends the inclusion or amendments of the following provisions:

1. In section 4.6 Alcohol and drug testing, include a requirement for "return to work" testing. This testing would apply to workers who have been off work for drug/alcohol treatment and are now returning to work with a return to work plan and follow up testing. Return to work testing would be done after the completion of treatment but just before the person goes to work, if possible within a day or so of return to work. This is a high risk time for the worker and the organization, so it would be important for this to be a requirement.
2. We recommend changing the specifications around follow-up testing to allow the professionals to set these requirements. These specifications need to include the requirement for a written follow-up plan. Depending on what drugs the person was treated for, how their treatment has progressed and many other factors, some workers may initially need much more frequent testing than quarterly. If the intent of the regulation is to ensure a minimum of quarterly testing for two years, that may be more reasonable, but this minimum could clearly be inadequate in a many cases.
3. Provide greater clarity in the document around outcomes for a worker testing positive at the workplace. In compliance with the law in Alberta, workers who test positive (unless they are already on a follow up plan or last chance agreement) are offered an opportunity for an assessment by a qualified addictions specialist and if deemed to be dependent, are considered to be disabled and are offered the opportunity for treatment, follow up and eventual return to work. In your regulations, it is also not clear if this treatment will be paid for up front by the organization, reimbursed all or in part by a benefits plan, or fully the responsibility of the worker.
4. It is not clear in your proposed regulations if you intend to use Point of Collection urine testing or exclusively urine lab testing. If using POCT it is not clear what you would do when a worker has a non-negative test (send them home while waiting for confirmation, or send the employee back to work with the knowledge that the employee may not be fit for work). If

using lab based urine testing in the case of post incident or reasonable cause, it is not clear what action would be taken with the employee while waiting for testing results.

Hopefully these comments are useful to you as you move closer to implementation. Feel free to contact me if there are any follow up questions or there is any other information that would be useful.

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