Workplace Drug and Alcohol Policy at NXG

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Purpose

NXG is a juice-manufacturing company that uses heavy machinery, vehicles, chemicals, forklifts, production lines, and other safety-sensitive equipment. The company is committed to preventing impairment, accidents, product contamination, unsafe conduct, and unlawful possession or distribution of controlled substances in the workplace.

This policy is intended to:

- protect employees, contractors, visitors, consumers, and company property;
- prohibit working while impaired by alcohol, illegal drugs, misused prescription medication, or other intoxicating substances;
- establish fair and legally compliant testing procedures;
- provide access to assistance and treatment;
- protect medical privacy and prevent discrimination; and.
- comply with applicable federal, state, local, contractual, and collective-bargaining requirements.

The Drug-Free Workplace Act of 1988 does not automatically apply to every private employer. It generally applies to federal workplaces and to certain federal contractors and grantees. NXG should identify whether it holds a covered federal contract or grant before describing the Act as a universal legal obligation (U.S. Department of Labor [DOL], 2026).

Scope

This policy applies to employees, applicants where lawful, temporary workers, interns, and contractors while they are:

- on company premises;
- operating company vehicles or equipment;
- working at customer or supplier locations;
- travelling or attending events on company business;
- on call or otherwise expected to be fit for duty; or.
- engaging in conduct outside work that has a direct, lawful, and demonstrable connection to safety, job performance, or company obligations.

A business trip to Denver or another location where adult cannabis use is lawful under state law does not itself determine whether an employer may test or discipline an employee. State and local employment protections vary, federal requirements may apply to particular positions, and a positive cannabis test may reflect prior use rather than current impairment. NXG must obtain state-specific legal review before applying one policy across multiple jurisdictions.

Definitions

- Illegal drug use: use, possession, manufacture, sale, or distribution prohibited by applicable law. Under the Americans with Disabilities Act, testing for current illegal drug use is not treated as a medical examination, but other legal restrictions may apply.
- Impairment: a reduction in the ability to perform work safely or effectively because of alcohol, drugs, medication, fatigue, illness, or another condition.
- Prescription medication: medication lawfully prescribed to the employee and used according to instructions.
- Safety-sensitive position: a job in which impaired performance could create a significant risk of injury, death, contamination, or serious property damage.
- Reasonable suspicion: specific, contemporaneous, and articulable observations suggesting possible impairment or prohibited conduct.
- Medical Review Officer (MRO): a qualified physician who reviews laboratory results and determines whether a legitimate medical explanation exists.
- Refusal: conduct defined in the applicable policy or regulation, such as failing to appear, leaving before completion, tampering, substituting a specimen, or declining a required test. A refusal may be treated as a policy violation but should not be described as a medical admission of drug use.

Prohibited Conduct

NXG prohibits:

- working or reporting to work while impaired;
- using, possessing, selling, transferring, manufacturing, or distributing illegal drugs on company property or during company business;
- consuming alcohol during work or company business unless specifically authorised for a function and the employee will not perform safety-sensitive duties or drive;
- misusing prescription or over-the-counter medication;
- using another person’s prescription;
- tampering with a test or falsifying documentation;
- possessing drug paraphernalia connected with unlawful use on company property;
- retaliating against a person who reports a safety concern, injury, policy violation, or request for

help; and.
- failing to comply with legally required testing rules for a regulated safety-sensitive position.

NXG may prohibit impairment at work even where a substance is lawful outside work. It should not, however, regulate lawful off-duty conduct more broadly than permitted by applicable law or necessary for a legitimate business reason.

Prescription and Over-the-Counter Medication

Employees are not required to disclose every prescription or diagnosis to their supervisor or HR. Medical information should be limited to what is necessary to evaluate safe job performance, accommodation, or a test result.

An employee who believes medication may impair safe performance should contact an occupational-health provider, MRO, or designated confidential process. The employer may request appropriate fitness-for-duty information when job related and consistent with business necessity, but it should not inspect medication bottles casually or demand the diagnosis when a functional restriction is sufficient.

Lawful use of prescribed opioids or medication for opioid-use disorder cannot automatically disqualify an employee from a job unless another federal rule applies or the employee cannot perform essential duties safely, with or without reasonable accommodation. Current illegal drug use is not protected in the same way, while people in recovery or using medication lawfully may have protection under the ADA (U.S. Equal Employment Opportunity Commission [EEOC], 2020).

Employee Assistance and Voluntary Self-Referral

NXG encourages employees to seek assistance before a safety incident, policy violation, or required test. Available support may include:

- an employee-assistance programme;
- health-insurance treatment benefits;
- confidential assessment by a qualified professional;
- approved medical or personal leave;
- reasonable accommodation where required;
- temporary reassignment when appropriate and available; and.
- return-to-work and follow-up plans.

Voluntary help should not automatically result in discipline. However, self-referral does not prevent action for misconduct, current impairment, possession, diversion, violence, a serious safety event, or a violation already discovered. Treatment decisions should be made by qualified clinicians rather than by an “investigation board.”

Workplace prevention should include education, supervisor training, healthy work design, injury prevention, support for stress and mental health, and access to treatment. The Department of Labor identifies employee-assistance programmes, health and well-being initiatives, unions, safer work processes, and reduced workplace stressors as useful prevention measures (DOL, 2026).

Testing Programme Principles

NXG will conduct testing only when permitted by applicable law and the written policy. The programme should use:

- a qualified collection site;
- chain-of-custody procedures;
- an appropriately certified laboratory;
- initial and confirmatory testing;
- MRO review before a non-negative result is reported as a verified positive;
- an opportunity to provide a legitimate medical explanation;
- a split specimen or retest where required or provided by policy;
- confidential handling of results; and
- consistent application without discrimination or retaliation.

SAMHSA recommends MRO review and notes that federal testing programmes use split specimens so an employee with a verified positive may request testing by a second certified laboratory. Although non-federal employers are not always legally required to copy federal procedures, similar safeguards improve accuracy and fairness (Substance Abuse and Mental Health Services Administration [SAMHSA], 2026).

Pre-Employment Testing

NXG may require a post-offer drug test for designated positions when permitted by law. Applicants must receive advance written notice identifying:

- the positions covered;
- the substances tested;
- the testing and review process;
- the consequences of refusal or a verified positive;
- the right to explain lawful medication to the MRO; and.
- any retest or appeal rights.

Alcohol testing is a medical examination under the ADA and ordinarily should not be administered to an applicant before a conditional offer. Drug testing should be separated from disability-related inquiries. Results must be evaluated under the law of the jurisdiction in which the person will work.

Reasonable-Suspicion Testing

Reasonable suspicion must be based on specific observations, not stereotypes, rumours, diagnosis, lawful medication, disability, race, age, personality, or a supervisor's general dislike. Relevant observations may include:

- unexplained loss of coordination;
- slurred or incoherent speech;
- the smell of alcohol or a substance;
- possession or use observed at work;
- markedly unsafe behaviour;
- significant confusion or inability to perform routine duties; or.
- credible evidence of tampering or diversion.

Symptoms may also result from a medical emergency, fatigue, diabetes, stroke, medication reaction, or mental-health crisis. The immediate response is to remove the person from hazardous duties, arrange safe transport, obtain medical assistance where needed, and document objective observations. A trained second supervisor should confirm the observations where practicable.

Post-Incident Testing

NXG will not automatically test every person involved in an injury or accident. Post-incident testing should occur only when:

- permitted or required by law;
- there is a reasonable possibility that substance use contributed to the event;
- the policy identifies neutral triggering criteria; and.
- testing will assist a legitimate investigation.

Testing a person who was struck by falling material or whose conduct could not have contributed to the incident may discourage injury reporting. OSHA permits post-incident testing but prohibits using testing or the threat of testing to retaliate against workers for reporting injuries. OSHA specifically states that testing is appropriate when there is a reasonable possibility that drug use contributed to the incident (Occupational Safety and Health Administration [OSHA], 2026).

A positive drug test does not automatically prove impairment at the time of the event or establish causation. Accident investigations must also examine equipment, guarding, training, staffing, fatigue, procedures, supervision, maintenance, and environmental conditions. Compensation for damage or injury should not be demanded from an employee without legal review.

Random Testing

Random testing may be used for positions subject to federal regulation or where permitted by applicable law and justified by safety risk. The selection process must be genuinely random and administered consistently.

NXG should avoid random testing of the entire workforce merely because it is convenient. State law, privacy rights, collective bargaining, and the nature of the job may limit testing. The policy should distinguish regulated testing from non-regulated company testing.

DOT-Regulated Positions

If NXG employs commercial drivers or other workers subject to U.S. Department of Transportation drug-and-alcohol regulations, those employees must be managed under the applicable agency rules and 49 CFR Part 40. DOT procedures govern collection, laboratory testing, MRO review, alcohol testing, return-to-duty, follow-up testing, and records.

State cannabis laws do not alter DOT requirements for covered safety-sensitive employees. DOT states that marijuana remains unacceptable for those functions and that a medical-marijuana card or state-authorised product is not a legitimate medical explanation for a federal DOT marijuana positive (U.S. Department of Transportation [DOT], 2026).

Testing After Treatment or Return to Duty

Follow-up testing may be part of a signed return-to-work agreement, a regulated programme, or a clinically supported plan. The duration, frequency, and consequences should be documented and lawful. Testing should not be indefinite or punitive when the employee is in recovery and otherwise meeting job requirements.

For DOT-covered employees, return-to-duty and follow-up testing must follow federal procedures and the substance-abuse professional's plan. For non-regulated employees, NXG should consult legal counsel and use a qualified clinical recommendation.

Collection and Laboratory Procedures

Testing will be performed by an independent qualified provider rather than by a company supervisor. Collection procedures should protect dignity while preventing tampering. Direct observation should be used only when authorised and necessary under the applicable programme.

The laboratory should conduct confirmation of presumptive positives using an appropriate analytical

method. The MRO should contact the employee confidentially before reporting a verified positive when a legitimate prescription or other medical explanation may exist. A supervisor should not tell the laboratory which drugs to “look for” beyond the established panel based on personal suspicion.

Consequences

Consequences should depend on the nature of the violation, safety risk, law, past practice, collective-bargaining obligations, and consistency. Possible responses include:

- temporary removal from safety-sensitive duties;
- investigation and paid or unpaid leave where lawful;
- education, counselling, or treatment referral;
- a last-chance or return-to-work agreement;
- discipline up to and including termination; and.
- law-enforcement referral when legally appropriate.

A verified positive should not automatically produce the same consequence in every case. NXG must distinguish current illegal use, lawful medication, off-duty conduct, impairment, possession, diversion, and regulated testing. Any zero-tolerance rule must be reviewed under state and local law.

Applicants or employees should receive the result, the applicable policy basis, and information about available retest or challenge procedures. A negative result after suspension should trigger prompt restoration of pay and status where policy or law requires.

Confidentiality

Drug-and-alcohol records and medical information will be stored separately from ordinary personnel files and accessed only by people with a legitimate need to know. Supervisors ordinarily need information about restrictions, accommodations, or fitness for duty—not the employee’s diagnosis, medication name, or detailed treatment history.

Results may be disclosed when authorised by the employee, required by law, necessary for litigation or regulatory compliance, or permitted under the applicable programme. The statement that records can be released only by court order is too absolute; several legal and regulatory exceptions may apply.

Criminal Conduct

NXG may investigate credible allegations of drug manufacture, sale, diversion, theft, or possession on company premises or during company business. Evidence should be preserved, and law enforcement

may be contacted when appropriate.

The company should not state that it has no responsibility merely because an employee acted illegally. Employers may still have duties concerning safety, negligent supervision, reporting, workplace violence, evidence preservation, and cooperation with authorities. Likewise, off-duty arrest does not automatically prove misconduct. Employment action should follow applicable law, reliable facts, and a legitimate connection to the job.

Supervisor Responsibilities

Supervisors must:

- focus on performance and safety rather than diagnose addiction;
- document objective observations;
- obtain immediate help for medical emergencies;
- arrange safe transport and prevent an impaired employee from driving;
- apply the policy consistently;
- protect confidentiality;
- avoid retaliation; and
- consult HR, legal counsel, occupational health, or the MRO when uncertain.

Training should cover alcohol and drug indicators, medical mimics, documentation, testing triggers, disability law, crisis response, and how to refer employees for assistance.

Policy Administration and Review

HR will coordinate implementation, but the programme should also involve safety, legal, occupational health, labour relations, privacy, and senior leadership. Where employees are represented by a union, NXG must evaluate bargaining obligations before creating or changing testing rules.

The policy should be reviewed at least annually and whenever:

- the company enters a new state;
- cannabis or testing law changes;
- federal contracts or DOT-covered work are added;
- testing technology or panels change;
- an incident reveals a procedural weakness; or.
- employee feedback or outcome data indicates unfairness or ineffectiveness.

Conclusion

NXG has a legitimate need to prevent impairment in a manufacturing workplace with heavy equipment. A safe and lawful programme, however, requires more than automatic testing and termination. It should distinguish impairment from past use, confirm results through a qualified laboratory and MRO, protect lawful medication and recovery, use post-incident testing only when substance use could have contributed, comply with state and federal rules, and provide meaningful assistance.

The policy should be reviewed by employment counsel in every jurisdiction where NXG operates. The company's strongest approach combines clear conduct standards, fair testing, medical privacy, supervisor training, employee support, safe work design, and proportionate accountability (SAMHSA, 2026; EEOC, 2020; OSHA, 2026).

References

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