

Northern New York Chapter of NECA

And

Local Union #910, IBEW

DRUG AND ALCOHOL POLICY

STATEMENT OF PURPOSE

The dangers and costs that alcohol and other chemical abuses can create in the electrical contracting industry in terms of safety and productivity are significant. The parties to this Policy resolve to combat chemical abuse in any form and agree that, to be effective, programs to eliminate substance abuse and impairment should contain a strong rehabilitation component. To provide a drug-free workplace, the Northern New York Chapter of N.E.C.A. (NECA) and Local Union 910, IBEW (Local 910) have negotiated and are implementing this Drug and Alcohol Policy.

Our goal is to provide help for employees who have substance abuse problems while at the same time insuring that our workplace is operating safely and efficiently. The Drug-Free Workplace Program provides NECA with reasonable measure to insure that an individual employee's problem does not jeopardize the successful completion of duties, or negatively affect co-workers or the general public.

NECA and Local 910 believe that early recognition and treatment are crucial to successful rehabilitation. Identification of possible substance abuse problems in the early stages and referral to appropriate care also minimize the business, personal, family and social disruption associated with substance abuse. Therefore, NECA and Local 910 strongly encourage the use of the Employee Assistance Program ("EAP"). However, for those who refuse to seek help, refuse assistance when offered, or who do not cooperate with the policy and program, appropriate measures will be taken to reach the goal of a work environment free from the negative effects of drugs and alcohol.

DEFINITIONS

1. "Alcohol" means ethyl alcohol (ethanol) and includes all liquids containing ethyl alcohol. This will include but not be limited to distilled spirits, liquor, beer, wine, malt liquor or any other intoxicant used as a beverage.
2. "Drug" means any substance other than alcohol capable of altering an individual's mood, perception, pain level or judgment. A prescribed drug is any substance

prescribed for individual consumption by a licensed medical practitioner. An illegal drug is any drug or controlled substance which (a) is not legally obtainable or (b) is legally obtainable but has not been legally obtained or which is not being used for its intended purpose.

3. “Applicant” means any person who is seeking referral to employment with a signatory employer.
4. “Employee” means any (bargaining unit member, applicant for membership or apprentice) who is employed by a signatory employer.
5. “Signatory Employer” means an employer in the electrical industry who is bound to a Letter of Assent.
6. “Medical Review Officer (MRO)” is a licensed physician responsible for receiving laboratory results generated under the drug testing program and who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s positive test result together with employee’s medical history and any other relevant biomedical information.
7. “Possession” means on one’s person, in one’s personal effects, in one’s locker or under one’s control.
8. “Sale” means any exchange, transfer or sharing whether for money or otherwise.
9. “Impaired” means a condition wherein any of the body’s sensory cognitive or motor functions for capability are altered, diminished or affected
10. “Use” means any form of consumption, ingestion, inhaling or injecting.
11. “Motor vehicle” includes, but is not limited to, motorcycles, automobiles, and trucks.

12. “Employer Property” is land, buildings, structures, vehicles or other property owned or leased by the employer or the job or construction site where the employer is performing work.
13. “Under the influence” means affected by alcohol or any other drug or combination of drugs in any detectable manner. Thresholds defining “positive test results” will follow those determined by the Federal D.O.T. guidelines on drug testing. Alcohol testing will follow the guidelines as defined on page 6.

THE POLICY

Each Employer shall have the right to request drug-free applicants for employment from the drug-free applicant pool for each specific designated job, or the employer may choose to hire only drug-free applicants for all employees. The request and referral procedures under this Policy shall be in accordance with the parameters of hiring hall procedures and groups as provided for in the collective bargaining agreement.

Each applicant and/or employee to be eligible for employment through the drug-free applicant pool shall submit to a substance abuse test, demonstrate compliance, and remain in compliance with this Drug and Alcohol Policy. If an Employer chooses to hire only drug-free applicants, all incumbent employees of the Employer shall submit to a substance abuse test as a condition of continuing employment with such Employer. Although participation in this Drug and Alcohol Policy is voluntary, only those applicants and/or employees who choose to be tested and remain compliant with this Policy are eligible for referral to employment from the drug-free applicants’ pool.

No employee shall report or remain on duty while under the influence of alcohol or illegal drugs. No applicant or employee shall be admitted to the drug-free applicants’ pool without submitting to and passing a drug test. The use, possession, or sale of alcohol or illegal drugs or the illegal use of prescribed drugs by an employee during working hours or on the Employer’s property or the jobsite is strictly prohibited. The use, sale or possession of alcohol,

illegal drugs or controlled substances while on duty is a violation of this Policy and shall be subject to disciplinary action.

LEGALLY PRESCRIBED MEDICATIONS

NECA and Local 910 recognize the need for applicants/employees to periodically take prescribed medications as directed by their physician. No prescription drug may be brought on Employer premises or the job site by any person other than the one for whom it is prescribed. Certain prescription medications may affect an applicant/employee's performance or safety, or the safety of others; therefore, it is expected that any applicant/employee taking prescribed medication shall follow any and all directions associated with such use. It is further required that an applicant/employee refrain from operating equipment or otherwise performing work while impaired by any drug medication.

DRUG AND ALCOHOL TESTING

This Drug and Alcohol Policy requires applicant/employees to submit to and pass a drug test by urinalysis as a condition of admission to the drug-free applicant pool and to thereafter submit to and pass a drug test at least every two (2) years as well as being subject to all other test provisions of this Policy. An applicant/employee's: 1) refusal to participate in a specified test when requested; 2) submission of an adulterated or altered sample, will create a presumption that the employee has violated the policy and will be treated in the same manner as a MRO positive test result.

In addition to the above requirement to be tested at least every two years, all applicants/employees from the drug-free pool shall be subject to random testing. This random testing shall be done in such a fashion as to ensure that a minimum of fifty percent (50%) of the pool is tested annually. When selected, an applicant/employee shall report at the designated time and place for testing. Each person in the drug-free pool has an equal chance of being chosen for testing every time a random selection is drawn.

Also, in consideration of the fact that applicant/employees are working with or around, high speed and/or equipment and otherwise engaged in safety sensitive activities, the employer may require an employee to submit to breath testing or urinalysis when:

- 1) Observable behavior such as direct observation of drug or alcohol use or the possession or distribution thereof.
- 2) There is a reasonable suspicion that an employee is under the influence of alcohol or a controlled substance. Reasonable suspicion must be based upon specific, contemporaneous, articulable, observations concerning the appearance, behavior, speech or body odors of a covered employee by a Employer supervisor who is specifically trained to recognize alcohol misuse or drug use.
- 3) Incidents, accidents, job injury, or recurrence of a job injury which result in lost working/training time, medical treatment away from the workplace or substantial damage to property under conditions which indicate employee fault or impairment that justify such testing.

REFUSAL TO TEST

An applicant/employee's refusal to submit to the drug and alcohol test when requested in accordance with this policy will create a presumption that the applicant/employee has violated the policy and will be treated in the same manner as a MRO positive test result.

A refusal to test is defined as:

- 1) an applicant/employee's refusal to participate in any way in the process or collection site procedure, including refusal to go to the site as soon as possible.
- 2) any conduct, before arriving or at the collection site, that would obstruct the proper collection or administration of a test.
- 3) any alteration, in any way, of a specimen collection.

4) a delay in providing a urine specimen for drug testing or a breath specimen for alcohol testing or an applicant/employee's inability to provide a sufficient urine or breath specimen. Provided the assigned Medical Review Officer (MRO) can not find a legitimate medical explanation for such a delay or lack of sufficient specimen.

5) an applicant/employee's intentional falsification of information on any form provided by the Collection Site or by any agency associated with this process.

All Drug and Alcohol Testing pursuant to this agreement will be preformed by a laboratory certified by the Department of Health and Human Services ("HHS") under the National Laboratory Certification Program ("NLCP"). Such testing laboratories will be designated by NECA and the IBEW.

POSITIVE TEST THRESHOLDS

In connection with alcohol testing, an employee shall be considered to test positive for, and/or be under the influence of, alcohol if the initial screen and confirmatory test, if any, show the presence of alcohol and/or any metabolites of alcohol at a concentration of .04 of 1% or more by weight of alcohol in his/her blood or a concentration of .04 of 1% or more by weight of alcohol per 200 liters of his/her breath.

In connection with drug testing, the current classes of drugs for which the United States Department of Transportation has specified testing be conducted along with the levels designated as a positive test are as follows:

<u>Initial Test Substance</u>	<u>Initial Test Level</u> (ng/ml)	<u>Confirmatory Test Level</u> (ng/ml)
Marijuana metabolites	50	15
Cocaine metabolites	300	150
Opiate metabolites (Morphine/Codeine)	2000	2000
Phencyclidine	25	25
Amphetamines	1,000	500

The initial test shall use an immunoassay, which meets the requirements of the Food and Drug Administration for commercial distribution. These cutoff levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances at other concentrations.

For the Confirmatory test, All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff levels listed in the paragraph above for each drug. All confirmations shall be by quantitative analysis.

In the case of urine testing for controlled substances, a split sample will be taken in accordance with D.O.T. regulations. Should the applicant/employee test positive, he or she may make a request to the MRO to have the secondary vial tested by a different NIDA certified laboratory. This request must be made within 72 hours of the applicant/employee being notified of a positive result in order to be honored. The applicant/employee shall prepay all costs associated with the secondary test and shall receive reimbursement for said costs (with proper receipt) if the test result on the secondary vial is negative. No such reimbursement shall take place if the test result on the secondary vial is positive.

Individuals submitting “dilute samples” which test negative shall be subject to immediate re-testing at their own expense. If the re-test is done within one (1) business day of notification, the sample is not dilute, and the result is negative, the employee / applicant shall be reimbursed for the expense (with proper receipt). If the re-test is dilute, it shall create a presumption that the employee has violated the policy and will be treated in the same manner as a positive test result and no reimbursement shall occur.

TEST RESULTS AND FOLLOWUP

A Medical Review Officer (MRO) will review the test results and identify results that are positive. For positive results, the MRO must contact the applicant/employee and conduct an interview to determine if there is an alternative medical explanation for a positive test result, including a review of the individual’s medical history. If the applicant/employee declines the opportunity to discuss the test, has no alternative medical explanation for the result, or is unable

to be contacted after reasonable efforts, the MRO may verify the results and notify Local 910's designated representative and, in the case of incumbent employees, the designated representative of the employer.

If an applicant/employee tests positive, he or she will not be admitted to the drug-free applicant pool for a minimum of five (5) days, but may reapply for admission to the drug-free applicant pool after producing a negative test result and upon presentation of a written release to return to work signed by a licensed physician or recognized rehabilitation professional. If, within a twenty-four month period the employee is retested and again produces a positive test result, the employee shall be suspended and remain ineligible for employment until such time as the employee successfully completes a rehabilitation program designed to suit his or her needs.

If an employee, already employed by a signatory employer, tests positive for a controlled substance or alcohol, the employee shall be suspended from employment for a minimum of five (5) days and will be required to produce a negative test result and written release to return to work signed by a licensed physician or recognized rehabilitation professional before returning to employment. If, within a twenty-four month period after the minimum five (5) day suspension period, an employee is retested and again produces a positive test result, the employee shall be suspended and remain ineligible for employment until such time as the employee successfully completes a rehabilitation program designed to suit his or her needs.

If any applicant/employee tests positive, he/she will not be referred for employment with any employer, whether a drug-free employer or not, until said applicant/employee is re-tested and produces a negative result. The aforementioned testing shall be at the individual's own expense.

If the applicant/employee enrolls in a rehabilitation program and subsequently tests negative for controlled substances, or alcohol abuse, he or she may be returned to employment or to the drug-free pool. Any employee participating in an outpatient program will be required to report their progress to a designated NECA/employer/Local 910 representative. Such employee shall be subject to follow-up testing for a period of twelve (12) months. During such twelve (12)

month period, the employee shall be subject to a minimum of six (6) unannounced follow-up tests.

Should an employee who is required to complete a rehabilitation program fail to meet with a designated alcohol/substance abuse counselor or refuse to participate in an approved rehabilitation program after testing positive for controlled substance, or alcohol abuse, the employee shall be ineligible for referral from the drug-free applicant pool, for reemployment with a drug free employer or on a drug free jobsite.

If an applicant/employee who has previously tested positive for drugs or alcohol, complies with the provisions of this Policy and produces no positive test results for a twenty-four (24) month period, all documentation and references to the positive test shall be removed from the employee's personnel file and his or her record cleared.

THIRD-PARTY ADMINISTRATOR

Administrative functions such as record keeping, random selection, etc. shall be performed by a third-party administrative firm selected and engaged by NECA and Local 910.

NON-LIABILITY OF LOCAL UNION

It is agreed and understood that Local Union 910, IBEW shall not be responsible for the substance abuse testing provided in this Drug and Alcohol Policy nor with the costs associated with such testing. It is agreed and understood that by negotiating and participating in the implementation of this Drug and Alcohol Policy, Local Union 910, IBEW does not assume legal responsibility for ascertaining or monitoring the drug-free or alcohol-free status of any employee or for providing employees a safe workplace.

DATED: _____

IBEW Local 910

DATE: _____

Northern New York Chapter of NECA

