IBEW LOCAL UNION 110 AND
ST. PAUL CHAPTER, NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION
DRUG AND ALCOHOL POLICY AND PROGRAM
Effective January 1, 2008

Drug and alcohol abuse creates serious problems for workers, their families, the workplace, and the community. A cooperative and constructive effort is necessary to overcome the impact of drug and alcohol abuse on health, safety, productivity, quality of work, and morale. It is in the best interest of everyone associated with the industry that all employees are fit for duty while on the job.

In furtherance of the objectives stated above, St. Paul Chapter, National Electrical Contractors Association ("St. Paul NECA"), on behalf of its employers signatory to the Inside Agreement between St. Paul Chapter, NECA and IBEW Local Union 110 ("covered employers"), shall conduct drug and alcohol testing of all employed persons and all unemployed Book I persons covered under that agreement ("covered employees") and all persons seeking to become covered employees under that agreement, with the full intent to comply with the Minnesota Drug and Alcohol Testing Act, Minn. Stat. §181.950 et seq., (hereinafter "the Minnesota testing statute") in the manner set forth in the following policy.

I. USE AND POSSESSION PROHIBITED

The use, possession, transfer, and sale of alcohol, controlled substances or other drugs while on all premises owned or operated by a covered employer, while operating any vehicle, machinery, or equipment owned, leased or used by a covered employer, or while engaged in work for or on behalf of any covered employer is prohibited. Further, reporting for work or working behalf of a covered employer, or being present at a work site of a covered employer, under the influence of alcohol, controlled substances or other drugs is prohibited. This policy applies to all official or unofficial break and meal periods, and all other times during the working day in which an employee has reported for work, including unpaid meal breaks.

"Controlled Substances" means those substances whose distribution is controlled by law or regulation, including but not limited to narcotics, depressants, stimulants, hallucinogens, and marijuana/cannabis.

"Other Drugs" means those substances that may not be classified as controlled substances but which nevertheless may affect an employee's alertness, coordination, reaction, response, judgment, decision-making, or safety, including but not limited to inhalants and over-the-counter medications.

II. POLICY ADMINISTRATOR

Minnesota Occupational Health is the Policy Administrator and shall:

A. Select and utilize services of a testing laboratory that meets the criteria for drug testing established by the Minnesota testing statute for testing of specimens collected under this policy.

B. Provide specimen test kits and/or collection locations that follow chain-of-custody collection techniques and other requirements mandated by the Minnesota testing statute.

C. Maintain appropriate systems, records, and administrative procedures to provide member employers with accurate and timely information as to the drug and alcohol free status of employees.

D. Handle all other administrative and operational aspects of this drug and alcohol testing policy and ensure that the program complies with the Minnesota testing statute in all respects.

E. Select and hire a Medical Review Officer (MRO) who will do the following:

1. Confirm that tested individuals have been notified of all test results within three (3) working days after receipt of a test result from a test laboratory and provide the individual with an opportunity to explain a positive test result.

2. Review and verify a confirmed positive test result and process the tested individual's request for a confirmatory retest of the original sample.

3. Review and evaluate a tested individual's medical and/or other explanations for a positive test result.

4. Refer individuals testing positive to the appropriate medical evaluation and participate in return-to-duty decisions as set forth in this Policy.

5. Report the results of the drug testing procedure to the Policy Administrator.

III. TESTING

All covered employees and all persons seeking to become covered employees are subject to testing for the presence of alcohol, controlled substances or other drugs. All testing will conform to this Policy, the Minnesota testing statute and any other applicable law.

Testing shall be conducted in accordance with the requirements of the Minnesota testing statute.

All alcohol and drug testing shall be conducted by an independent laboratory authorized to conduct such testing under the Minnesota testing statute. The applicable alcohol and drug detection thresholds shall be established by the laboratory chosen to conduct testing.

Important Note – Physician-prescribed use of drugs or controlled substances can adversely affect workplace safety and job performance. Therefore, any covered employee taking any such drug or medication must inform the prescribing doctor of the nature of the job and ask whether the drug or medication poses a threat to the employee's health or safety on the job, or to that of others. If the doctor believes that such a threat exists, the employee must inform (title of person who should be informed).

IV. WHEN TESTING MAY BE REQUIRED

A. Pre-employment

1. The "pre-employment period" referred to in this policy means:

   a. The time in which an individual seeks to become a covered employee; or

   b. The period of time from which a covered employee or a person seeking to become a covered employee is referred to a covered employer for work at any site where the construction services user has mandated that persons performing construction services must pass a drug test.

2. Pre-employment testing shall be conducted as follows:

   a. All persons in their pre-employment period as defined in paragraph IV(A)(1)(a) shall be required to successfully pass a drug test as a pre-condition to being hired by a covered employer.*

   b. A pre-employment drug test will be administered in the pre-employment period described in paragraph IV(A)(1)(b) above, if the construction services user has mandated that persons performing construction services must pass a drug test.

   * All such persons shall be permitted to work for a covered employer during the time that the results of the pre-employment drug test are pending without being deemed "employees."

3. Eligible Book II, III and IV persons may elect to take a pre-employment drug test at the time that they register their desire to be referred for work. Any such persons receiving a negative result will become a covered employee, and will be treated as follows:

   a. They will receive priority for job referrals over all non-covered persons who have not yet taken a pre-employment drug test;
   b. They will be reimbursed for the cost of the pre-employment drug test once referred to and not rejected by a covered employer;
   c. They will be placed in the pool for random testing with covered employees.

B. Reasonable Suspicion

1. Covered employees will be required to undergo a drug and alcohol test if there exists a reasonable suspicion that the employee is under the influence

of alcohol, controlled substances or other drugs in a manner that violates this policy.

2. The required "reasonable suspicion" may be based on a variety of factors, including, but not limited to: smelling of alcohol or marijuana, displaying physical signs or symptoms customarily associated with alcohol or drug use (e.g. glassy eyes, slurred speech), displaying violent or unusually confrontational or argumentative behavior, showing a major personality change, disregarding safe operating procedures of equipment/machines or placing another person's safety in jeopardy by intentional or unintentional actions.).

3. During the process of establishing reasonable suspicion for testing, the employee has the right to request a union officer, union steward, union member, or an on-site employee to be present.

4. A covered employee tested for reasonable suspicion shall be suspended without pay pending the outcome of the results. In the event that the test results are negative, the employee will be paid back pay for each working day that the employee would have worked but for the suspension.

C. Post Incident Testing

1. Covered employees shall be required to undergo a drug and alcohol test if an employee:

   a. sustained a personal injury requiring off-site medical treatment;
   b. has caused another employee to sustain a personal injury;
   c. has caused a work-related accident; or
   d. was operating or helping to operate power tools, machinery, equipment, or vehicles involved in a work-related accident.

2. A covered employee subject to post-incident testing may be suspended without pay pending the outcome of the results. In the event that the test results are negative, the employee will be paid back pay for each working day that the employee would have worked but for the suspension.

D. Random Testing

1. The following persons are subject to random testing:
   a. All covered employees;
   b. All persons seeking to become covered employees who passed pre-employment drug tests under paragraph IV(A)(3).

2. All random testing shall comply with the requirements of the Minnesota testing statute, and will be conducted by the Policy Administrator.

3. At the effective date of this policy, all Local 110-referred individuals employed by covered employers, all unemployed Local 110 Book I persons, and all existing Local 110 apprentices will become covered employees and be placed in the pool for random testing. All such covered employees will remain subject to random testing and all other rights and obligations under this policy.

4. Random testing shall be conducted within two-year testing cycles, the first of which will commence on January 1, 2008. Within each testing cycle, random tests shall be conducted on a monthly basis, resulting in 24 testing periods. In each such testing period, tests will be required of the number of covered employees equaling 4.17% of the total number of covered employees at the beginning of each testing cycle, except that in the 24th and final testing cycle, testing will be required of all employees not yet tested randomly during the testing cycle.

5. Persons selected for random testing while actively employed with a covered employer will be contacted by their employer within 24 hours of the employer having been notified; they must then complete their test within 24 hours from the time they are notified. Persons selected for random testing while not actively employed with a covered employer will be contacted by Local Union 110 for the purpose of completing the random testing procedure.

6. Once a covered employee has been subjected to random testing under paragraph IV(D)(4) above, that person will be placed into a reserve pool, a separate group of persons subject to additional random testing at the rate of one percent (1%) of the total number of covered employees in the reserve pool during each monthly testing period. All such persons subject to testing under this paragraph will remain in this group for the remainder of the two-year *testing cycle*, after which they will return to the group of persons subject to random testing under paragraph IV(D)(4) above.

E. Treatment Program Testing

A covered employee who has been referred for chemical dependency evaluation or treatment in accordance with this policy, or who is participating in a chemical dependency program paid for in part or in whole by a health and welfare fund within the covered industry, may be required to undergo a drug and alcohol test without prior notice at any time during the evaluation and treatment period, and for up to two years following completion of any prescribed chemical dependency treatment program. Persons subject to testing under this paragraph also are subject to testing under all of the other testing provisions of this policy, and will be placed in whichever pool for random testing that applies to them.

F. Other Testing Guidelines

Under some circumstances persons covered by this policy may be subject to regulations for drug and alcohol testing established by a Federal or State Agency. To the extent that this policy is stricter or more specific than such Agency regulations, this Policy shall prevail unless expressly preempted or exempted by law. There shall be no other drug or alcohol testing required as a condition of employment.

V. RIGHTS OF PERSONS TO BE TESTED

A. Before being required to undergo testing, any person covered by this policy will be provided with a form on which the person may acknowledge having seen the drug and alcohol testing policy.

B. Within three (3) working days after the employer's receipt of a drug or alcohol test result report from a testing laboratory, the tested person shall be notified in writing of all test results. The tested person shall be provided with a copy of the test result report.

C. Any individual testing positive for drugs or alcohol shall be contacted by the MRO and shall have the right to explain the positive test and indicate any over the counter or prescription medication that the employee is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test.

D. Any medical information provided by any tested person after a confirmed positive test result will be used solely for the purpose of evaluating whether or not a medical explanation exists for the positive result. Nobody will be discharged, disciplined, discriminated against, or requested or required to undergo rehabilitation based upon medical history information provided in response to a confirmed positive test result unless the individual had a duty to provide that information before, during or after the time they were hired.

E. Within three (3) working days after notice of a positive test result on a confirmatory test, the tested individual may submit additional information to the information already submitted under paragraph V(C), to explain that result.

F. A tested individual who tests positive on a confirmatory test will have five (5) working days following the date which the individual is notified of the confirmatory test result to advise the MRO, in writing, of the desire to request a confirmatory retest of the original sample at the individual's own expense. All such confirmatory retests must be conducted by a lab authorized to conduct testing under the Minnesota testing statute.

G. When the laboratory rejects a specimen for any reason, such as low volume, a lost or broken sample, or improper identification, a completed test that has not been tampered with shall be deemed negative.

In the case of a dilute sample, the individual will be required to produce a second sample under observed conditions; should that sample also be dilute, the test will be deemed negative. Should a given individual produce a third dilute sample on a subsequent test, the individual will be required to obtain a written explanation from a urologist explaining the reason for the dilute samples, if any.

H. All persons covered under this policy have the right to refuse testing subject to the following consequences:

1. All persons in their pre-employment period as defined in paragraphs IV(A)(1)(a) or IV(A)(1)(b) who refuse to be tested will have their offer of covered employment revoked and will be ineligible for covered employment. For purposes of this paragraph, all persons who refuse to comply with any requirement imposed by this policy, or who engage in behavior which prevents meaningful completion of testing (including tampering with the sample or testing materials, or behavior intended to provide a dilute sample), will be considered to have refused to submit to drug testing.

2. All persons not covered under the preceding paragraph who refuse to be tested will be ineligible for covered employment. For purposes of this paragraph, all persons who refuse to comply with any requirement imposed by this policy, or who engage in behavior which prevents meaningful completion of testing (including tampering with the sample or testing materials, or behavior intended to provide a dilute sample), will be considered to have refused to submit to drug testing.

VI. LEAVING THE WORK SITE

During an investigation into possible use or possession of drugs or alcohol, or once a determination of reasonable suspicion has been made, an employee shall not leave the work site without approval of the employer, and shall leave in the manner determined by the employer. Leaving the work site without approval shall constitute a violation of this Policy.

VII. TEST RESULTS

A. **Negative Results**: If the result of the initial drug and alcohol screening is negative, or if the results of the confirmatory test or confirmatory retest (these tests are explained above) are negative, the tested individual is considered to have satisfactorily completed the drug and/or alcohol test.

B. **Positive Results - Initial Screening.** If the initial result on the drug and alcohol screening is positive, the sample which was tested will automatically be subject to a confirmatory test. No covered employee or non-covered person will be discharged, disciplined, discriminated against, deemed ineligible for covered employment, or requested or required to undergo rehabilitation solely on the basis of a positive result on an initial screening.

C. **Positive Results - Confirmatory Test**

1. Any individuals in their pre-employment period under paragraph IV(A)(1)(a), who receive a positive result on a confirmatory test or confirmatory retest shall become immediately ineligible for covered employment.

2. Covered employees, including persons in their pre-employment period under paragraph IV(A)(1)(b) – first positive result:

   a. Any covered employee, including persons in their pre-employment period-under paragraph IV(A)(1)(b), who receive a positive result on any test authorized under this policy where the positive result is the first such result will be treated as follows:

      (1) The individual shall be immediately removed from covered employment.

      (2) The individual will be referred to the Employee Assistance Program (EAP) and then, if indicated by the initial evaluation, offered the opportunity to participate in a drug or alcohol counseling or rehabilitation program at the employee's own expense or pursuant to coverage under an employee benefit plan. Persons not eligible for the services of the EAP may seek an evaluation at their own expense. That evaluation must be provided either by a chemical dependency practitioner currently licensed by the State of Minnesota or by an approved Substance Abuse Practitioner (SAP) under the drug testing regulation of the United States Department of Transportation (DOT).

      (3) The individual will be required to inform the Policy Administrator of the results of the evaluation and the type of counseling or rehabilitation program that the individual will be attending, if any.

      (4) An individual participating in an outpatient treatment program must agree to provide the Policy Administrator with certification from the treatment provider regarding the

expected length of treatment. The individual will become eligible for covered employment again only after the treatment provider certifies the individual's ability to return. If the individual is certified to return before completion of the outpatient program, he or she will be required to provide periodic certification from the treatment provider of continued participation in the outpatient program. If such certification is not provided, the individual will not be permitted to return to covered employment prior to completion of the program. In all cases, the individual must present evidence of satisfactory completion of the treatment program and must produce a negative return-to-duty test within the approved network and verified by the MRO in order to be eligible again for covered employment.

(5) If the evaluation results in a referral to inpatient treatment, the individual must agree to attend and will not be eligible for covered employment until the Policy Administrator receives evidence of satisfactory completion of the program and produces a negative drug and alcohol test.

b. A covered employee, including persons in their pre-employment period-under paragraph IV(A)(1)(b), who receives a positive result on any test authorized under this policy where the positive result is the first such result will be ineligible for covered employment under the following circumstances:

(1) Refusal to participate in a prescribed rehabilitation or treatment program; or

(2) Failure to successfully complete the prescribed program.

3. Covered employees, including persons in their pre-employment period under paragraph IV(A)(1)(b) – second positive result:

A covered employee, including a person in the pre-employment period under paragraph IV(A)(1)(b), who receives a positive result on any test authorized under this policy, where the positive result is the second such result for the tested individual under this policy, will be ineligible for covered employment.

VIII. TREATMENT/EMPLOYEE ASSISTANCE PROGRAM

This Policy recognizes that drug and alcohol dependency is a treatable health problem. Covered employees needing assistance in dealing with such a dependency are encouraged to consult with the Employee Assistance Program (EAP) to obtain information on the availability

of assistance resources, treatment clinics, and programs. Costs of treatment in excess of those covered by the employee's Health and Welfare Plan shall be the responsibility of the employee.

This Policy is implemented to encourage covered employees with health problems to seek treatment before their jobs are in jeopardy or the safety, health and security of the work environment is put at risk.

The EAP will be available to all covered employees who have satisfied eligibility requirements under the St. Paul Electrical Workers' Health Plan. Details of the EAP are available through the EAP and the Policy Administrator. All inquiries are confidential.

IX. GRIEVANCE PROCEDURE

All disputes involving the interpretation of this Policy and any discipline imposed for violations of this Policy shall be subject to the grievance procedure contained in the Collective Bargaining Agreement to the extent that the Collective Bargaining Agreement applies to the tested individual.

X. CONFIDENTIALITY

A. Test results and other information acquired as a result of the testing program are private and confidential information and will not be disclosed to anyone except as authorized under this policy or as directed with written consent of the person being tested.

B. Evidence of a positive test result on a confirmatory test, however, may be used in an arbitration proceeding pursuant to the Collective Bargaining Agreement, an administrative hearing, or a judicial proceeding, provided the information is relevant to the hearing or proceeding. Such evidence may also be disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order. Evidence of a positive test result on a confirmatory test may also be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment.

C. Test result reports and other information acquired in the testing process may be disclosed for any other reason required or permitted by law.

XI. FEDERAL PREEMPTION

This Policy does not apply to employees where the specific work performed requires those employees to be subject to drug and alcohol testing by the United States Department of Transportation.

XII. EFFECT OF POLICY

A. Drug Free Applicant Pool

1. As of the end of the first two-year testing cycle, a Drug Free Applicant Pool shall be formed consisting of all covered employees who:

   a. successfully passed a pre-employment drug test under paragraph IV(A) of this policy; and/or

   b. successfully passed a random drug and alcohol test within the initial testing cycle.

2. All persons placed in the Drug Free Applicant Pool shall remain in the Pool until they are subject to a confirmed positive drug and alcohol test under this policy or until they have failed to cooperate with the provisions of the policy.

3. Following establishment of the Drug Free Applicant Pool, covered employers may request referral of a person from the Drug Free Applicant Pool when seeking additional labor, and the request shall be granted provided that any such persons are available.

B. St. Paul NECA, on behalf of all covered employers, hereby agrees to waive any rights and hold Local 110 harmless in connection with all activities undertaken for the purpose of determining and monitoring the drug-free or alcohol-free status of any covered employee or persons seeking to become covered employees, or for providing covered employees with a safe workplace.

XIII. QUESTIONS

Questions regarding this policy should be directed to the Policy Administrator at 651-842-5259.

Policy adopted November 16, 2007 by action of the IBEW Local Union 110 - St. Paul Chapter NECA Labor Management Committee.

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