

Drug and Alcohol Testing Policy for
IBEW Local 233 and Montana Chapter NECA
Jurisdiction Wide
June 1, 2016

Category I Language for the Inside, Residential, and Sound and Communications Agreements specifies a Drug and Alcohol Testing Policy be in place.

With that being said, IBEW Local 233 and Montana Chapter NECA, establishes the following procedures for implementing this policy.

This policy applies to contractors that do not have their own Drug and Alcohol Testing Policy established. Employers that do have their own Drug and Alcohol Testing Policy established must submit it, in its entirety, to IBEW 233 and Montana Chapter NECA for it to be considered established. After IBEW 233 and Montana Chapter NECA review the employer policy and approve it, it will become effective 60 days after the approval date. The employer will make any changes to its policy that IBEW 233 and Montana Chapter NECA instruct it to do. It must also be accompanied by a signed document, on company letterhead, affirming the company will follow Federal & Montana laws for Drug & Alcohol Testing. IBEW 233 will provide the current Montana laws when an employer requests them.

Definitions

- (1) "Alcohol" means an intoxicating agent in alcoholic beverages, ethyl alcohol, also called ethanol or the hydrated oxide of ethyl.
- (2) "Alcohol concentration" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath, as indicated by an evidential breath test.
- (3) "Controlled substance" and/or "Drug" means a dangerous drug, as defined in 49 CFR, part 40, except a drug used pursuant to a valid prescription or as authorized by law.
- (4) "Employee" means an individual receiving monetary compensation from the company to include owners, fiduciary and shop personnel and does not include an independent contractor.
- (5) "Employer" means a person or entity that has one or more employees and that is located in or doing business in Montana.
- (6) "Hazardous work environment" includes but is not limited to positions;
 - (a) for which controlled substance and alcohol testing is mandated by federal law, such as aviation, commercial motor carrier, railroad, pipeline and commercial marine employees;
 - (b) that involve the operation of or work in proximity to construction equipment, industrial machinery or mining activities; or
 - (c) that involve handling or proximity to flammable materials, explosives, toxic chemicals or similar substances.
- (7) "Medical review officer" means a licensed physician trained in the field of substance abuse.
- (8) "Prospective employee" means an individual who has made a written or oral application to an employer to become an employee.
- (9) "Qualified testing program" means a program to test for the presence of controlled substances and/or alcohol that means the criteria set forth in 39-2-207 and 39-208 MCA.
- (10) "Sample" means a urine specimen and/or a breath test obtained in a minimally invasive manner and determined to meet the reliability and accuracy criteria accepted by laboratories for the performance of drug testing that is used to determine the presence of a controlled substance or alcohol.
- (11) "Identification" means the use of the Employees Identification Number established by the Employer at the time of employment with numbers and letters not in sequence and no other means of identification shall be used. Social Security numbers are prohibited to be used as the Employee Identification number.

Testing

Testing must be conducted according to the terms of these written policies and procedures that must be adopted by the employer and must be available for review by all employees 60 days before the terms are implemented or changed. Controlled substances and alcohol testing procedures for samples are covered by 49 CFR, part 40, must conform to 49 CFR, part 40. For samples not covered by 49 CFR, part 40, the qualified testing program must contain chain of custody and other procedural requirements that are at least as stringent as those contained in 49 CFR, part 40, and the testing methodology must be cleared by the US FDA.

Testing will be at the Employers expense and all employees must be compensated at the Employees regular rate, including benefits, for time attributable to the testing program. The collection, transport and confirmation testing of samples must be as stringent as the requirements of 49 CFR, part 40.

Before an employer may take any action based on a positive test result, the employer shall have the results reviewed and certified by a medical review officer who is trained in the field of substance abuse. An employee or prospective employee must be given the opportunity to provide notification to the medical review officer of any medical information that is relevant to interpreting test results, including information concerning currently or recently used prescription or nonprescription drugs.

The employer shall provide an employee who has been tested under any qualified testing program with a copy of the test report. The employer is also required to obtain, at the employee's request, an additional test of the split sample by an independent laboratory selected by the person tested. The employer shall pay for the additional tests if the additional test results are negative, and the employee shall pay for the additional tests if the additional test results are positive. The employee must be provided the opportunity to rebut or explain the results of any test.

The following types of controlled substance and/or alcohol testing will be allowed:

A. Pre-Employment Testing - If an Employer implements pre-employment testing the Employer shall test all prospective employees as a condition of hire. Employers shall furnish to the hall the job being designated as having pre-employment testing and it shall be on the halls recorder at the time of the request for manpower is given. All pre-employment testing shall be completed before any new hire reports to a job.

B. Random Testing - An employer may use random testing for controlled substance and alcohol in accordance with the following criteria:

(1) An employer or an employer's representative may establish a date when all salaried and wage-earning employees will be required to follow the established procedure. When Random Testing is established, Mt. Chapter NECA and IBEW Local 233 shall be notified by certified mail, return receipt and it shall take effect 60 days after implementation.

2) An employer may manage or contract with a third party to establish and administer a random testing process that must include:

- (i) an established semi-annual calendar period of (Jan.- June) (July - Dec) for testing;
- (ii) an established testing rate of no more than 35% within the above testing periods;
- (iii) a random selection process that will determine who will be tested on any given date during the calendar period for testing; The selection and identification of employees in a random testing procedure must be made by a scientifically valid method, such as a random number table or a computer-based random number generator table;
- (iv) all owners, supervisors, managers and employees in the random selection and testing process;

- (v) a procedure that requires the employer to obtain a signed statement from each employee that confirms that the employee has received a written description of the random selection process and that requires the employer to maintain the statement in the employee's personnel file for each established testing period; and
- (vi) a union representative present during the random selection process and at the site.
- (3) Any third party used to administer this random testing procedure shall not enter any test results in any database. (Local, National or Company wide)
- (4) If an employee is requested or required to use his personal vehicle to report to the testing facility they will be reimbursed at the IRS Federal mileage rate per road mile each way from the shop or job.
- C. Follow up Testing** - An employer may require an employee to submit to follow up tests if the employee has had a verified positive test for a controlled substance or for alcohol. The follow up tests may be conducted for up to 1 year from the time that the employer first requires a follow up test.
- D. Post Accident Testing** - An employer may require an employee to be tested for controlled substances or alcohol if the employer has a reason to believe that the employee's act or failure to act is a direct or proximate cause of a work-related accident that has caused death or personal injury or property damage in excess of \$1,500.00.
- E. Reasonable Suspicion Testing** - An employer may require an employee to be tested for controlled substances or alcohol if the employer has a reason to suspect that an employee's faculties are impaired on job as a result of the use of a controlled substance or alcohol consumption. An employer shall comply with the supervisory training requirement in 49 CFR, part 382.603, whenever the employer requires a test on the basis of reasonable suspicion.
- F. Alcohol Testing** - Breath alcohol tests must be administered by a certified breath alcohol technician and may only be conducted using testing equipment that appears on the list of conforming products published in the Federal Register. A breath alcohol test result must indicate an alcohol concentration at or greater than 0.08 for a person to be considered as having alcohol in the person's body.
- G. Testing Levels** - The testing levels and controlled substances to be tested are as follows:

Marijuana	150 ng/ml
Amphetamines	1000 ng/ml
Opiates	2000 ng/ml
Cocaine	300 ng/ml
PCP (angel dust)	25 ng/ml
- H. Testing Refusal** - Any current employee that refuses to test under the substance or alcohol testing procedure may be discharged by being laid off.
- I. Testing Places** - Testing will be done in Great Falls at Great Falls Medical Services, Helena at the Helena Medical Laboratory and Butte at the Pro Med Services Laboratory, with all associated costs being borne by the employer. Other locations will be allowed for drug testing with mutual agreement between IBEW 233 and Montana Chapter NECA. Associated costs shall include but are not limited to the cost of the tests, wages, benefits and postage for the results to be mailed certified - return receipt - restricted delivery to the employee's personal residence.

Rehabilitation

Any Employee has the right to enroll in an Employee Assistance Program prior to any Drug or Alcohol testing without the threat of retaliation, firing or layoffs.

In addition to imposing appropriate sanctions on an employee for violation of the employer's standards of conduct, an employer may require an employee who tests positive on a test for controlled substances or alcohol to participate in an appropriate drug and alcohol counseling, treatment, or rehabilitation program as a condition of continued employment. An employer may require the employee to submit to periodic follow up testing as a condition of the counseling, treatment, or rehabilitation program. The 8th District Electrical Benefit Fund may have an Employee Assistance Program (EAP) and should be utilized first before more costly programs are used.

This policy shall supersede any and all existing policies already in place with all signatory contractors and shall cover all signatory contractors working within the jurisdiction of IBEW Local 233.

Testing may be implemented 60 days from the effective date of this policy.

Effective date of this policy is the date of approval from the International Office of the IBEW.

This policy shall take effect as stated in the previous sentence and shall remain in effect until May 31, 2017 unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from June 1 through May 31, of each year, unless changed or terminated in the way later provided herein.

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