

CHUGACH ELECTRIC ASSOCIATION, INC.
Anchorage, Alaska

BOARD MEETING
AGENDA ITEM SUMMARY

July 11, 2007

ACTION REQUIRED

AGENDA ITEM NO. XI.C.

Information Only
 Motion
 Resolution
 Executive Session
 Other

TOPIC

Board Policy 131 – Drug and Alcohol Policy and Procedures

DISCUSSION

This agenda item was forwarded to the Board from the Operations Committee meeting scheduled on June 27, 2007 for additional discussion.

MOTION

Move that the Board of Directors forward Board Policy 131, Drug and Alcohol Policy and Procedures to the Operations Committee meeting scheduled on July 25, 2007, for additional discussion.

CHUGACH ELECTRIC ASSOCIATION, INC.

BOARD POLICY: 131

Date: _____

DRUG AND ALCOHOL POLICY & PROCEDURES

I. OBJECTIVE

To provide Chugach Electric Association, Inc. (Association) employees with high standards for the health and safety of its employees, customers, and the public at large. The use of or impairment by drugs and/or alcohol during work hours is contrary to these high standards and will not be tolerated.

II. ELIGIBILITY

The provisions of this policy, in their entirety, are applicable to all non-bargaining unit employees. This policy also applies to bargaining unit employees in accordance with the terms and conditions of the applicable collective bargaining unit agreement.

SECTION I. INTRODUCTION AND GENERAL INFORMATION

A. Drug and Alcohol Prohibition Policy

1. Policy The Association has a long-standing commitment to maintain high standards for the health and safety of its employees, customers and the public. The use of or impairment by drugs and/or alcohol during work hours is contrary to these high standards and will not be tolerated.
2. Purpose The purpose of this Drug and Alcohol Policy ("Policy") is to maintain high safety, health and work performance standards and to reduce work-related accidents, injuries and damage which may be caused by drug or alcohol use or impairment. This Policy is also intended to ensure the maintenance of productivity, the quality of products and services and the security of property.
3. Prohibited Conduct The following conduct is prohibited, and may result in discipline, up to and including termination:
 - a. The unauthorized use, possession, manufacture, distribution or sale of an illegal drug, controlled substance or drug paraphernalia on or in Association-owned property (including Association-supplied vehicles) or while on company business, or during working hours.
 - b. Storing any illegal drug, drug paraphernalia, or any controlled substance whose use is unauthorized, in or on Association-owned or supplied

property (including vehicles).

- c. Reporting to work, working or acting or appearing on behalf of the Association while under the influence of illegal drugs or a controlled substance whose use is unauthorized.
- d. Failure by an employee to notify the employee's supervisor before beginning work that she/he is taking medications or drugs which may interfere with the safe and effective performance of his/her work duties.
- e. Refusing to immediately submit to a drug or alcohol test when requested by the Association, in accordance with this Policy.
- f. Failing to adhere to the requirements of any drug or alcohol treatment or rehabilitation program in which the employee is participating, either: (1) as a condition of continued employment, or (2) pursuant to a written agreement between the Association and the employee.
- g. Violating any criminal drug or alcohol law or statute while working.
- h. Failing to notify the Association of any arrest or conviction under any criminal drug or alcohol statute by the next work day following the arrest or conviction.
- i. Testing positive for drugs or alcohol in violation of this Policy.
- j. Tampering with, adulterating, altering, substituting or otherwise obstructing any drug or alcohol testing process required under this Policy.
- k. Reporting to work or remaining on duty requiring the performance of a safety sensitive function while having an alcohol concentration of .04 or greater, or if the employee is otherwise impaired by or under the influence of alcohol.
- l. Consuming or using alcohol, illegal drugs or controlled substances whose use is unauthorized while on duty or while performing a safety sensitive function.
- m. Performing a safety-sensitive function within eight hours of consuming or using alcohol. An on-call employee who consumes alcohol within four hours of being called in to perform a safety sensitive function must acknowledge the use of alcohol and may not report for duty.

B. Effective Date of Policy

- 1. This Policy will become effective on July 30, 2007.
- 2. Each manager shall post this Policy in a prominent location readily accessible to all covered employees.
- 3. A copy of this Policy will be distributed to each employee.

C. Applicability

1. Individuals Subject to Drug and Alcohol Policy Any prospective employee, all non-bargaining unit employees and bargaining unit employees in accordance with the applicable bargaining unit agreement.
2. Substances Tested For and Positive Results The Association shall test for alcohol and the following drugs:

Screening levels:

THC (Marijuana) - 50 ng/ml
Cocaine Metab. - 300 ng/ml
Opiates - 2000 ng/ml
PCP (Phencyclidine) - 25 ng/ml
Amphetamines - 1000 ng/ml
Methamphetamines - 1000ng/ml

Testing by evidential Breath Testing Device

Alcohol - .02-.039 out of service

Confirmation levels (GC/MS)*:

THC (Marijuana) - 15+ ng/ml
Cocaine Metab. - 150+ ng/ml
Opiates - 2000+ ng/ml
PCP (Phencyclidine) -- 25+ ng/ml
Amphetamines - 500+ ng/ml
Methamphetamines - 500+ ng/ml

Tested by Evidential Breath Testing Device

Alcohol - .04 or greater positive.

*Substance Abuse and Mental Health Services Administration (SAMHSA) specified threshold

Test results at or above the confirmation level will be considered a positive test.

D. Circumstances Under Which Testing May be Conducted

The Association will test employees for drugs and/or alcohol under the following conditions:

1. Pre-Employment Testing

A pre-employment drug and alcohol test of all prospective employees will be conducted. A positive test result is grounds for denying employment and a negative result is required prior to reporting for work.

2. Post-Accident Testing

a. Persons Subject to Post-Accident Testing

Employees whom the Association reasonably believes may have contributed to an accident in the workplace or during work hours may be required to undergo drug and/or alcohol impairment testing. Such a test will be conducted as soon as practicable after the accident, but not later than 32 hours after the accident for drugs and not later than 8 hours for alcohol. The Association will make reasonable attempts to obtain a sample from an employee after an accident, as defined below, but any injury should be treated first.

An accident that requires testing may involve any of the following:

- Loss of human life,
- Issuance of a moving traffic citation under state or local law,
- Injuries to pedestrians or occupants of the Association's vehicle or other vehicles,
- Medical treatment other than first aid administered away from the scene, or
- Significant property damage

b. Obligations of Employee Subject to Post-Accident Testing

- i. An employee who is subject to post-accident testing shall not consume alcohol for 8 hours after the accident, or until she/he has taken an alcohol test, whichever occurs first.
- ii. An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with the testing or the results of testing.

Employees who do not comply with the post-accident testing requirements, or who fail or refuse to provide a sample for testing, will be considered to have refused to submit to testing and will be subject to appropriate disciplinary action, including termination.

3. Random Testing

All employees shall be subject to drug and alcohol testing on an unannounced and random basis. The primary purposes of unannounced random testing are to deter illegal drug and alcohol use which may affect work performance or safety, and to ensure a drug free workforce.

Fifty percent of the testing pool will be randomly selected for drug testing each year and 25 percent will be selected for alcohol testing. The selections will be spread reasonably over a 12-month period.

In addition:

- a. Random tests will only be administered during an employee's work hours.
- b. Employees must remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
- c. Employees shall be selected for testing by using a computer-based random number generator.
- d. No advance warning will be given to employees regarding the dates and times of random testing.

4. Reasonable Suspicion Testing

Any employee whom the Association reasonably suspects may be impaired by the use of drugs or alcohol that may adversely affect job performance, safety or the work environment may be required to submit to a drug and/or alcohol test. Reasonable suspicion testing is done to identify drug and alcohol affected employees who may pose a danger to themselves or others in their job performance.

Supervisors will decide whether there is reasonable suspicion to believe an employee is impaired by or under the influence of a drug or alcohol while on duty in violation of this Policy.

a. When Reasonable Suspicion Exists

The decision to test must be based on a reasonable and articulable suspicion or belief that the employee is impaired or under the influence of an unauthorized drug or by alcohol. Reasonable suspicion is a belief based on contemporaneous articulable observations concerning the employee's appearance, behavior, speech or body odors, or other reliable evidence or information that the employee is under the influence of or impaired by drugs or alcohol. For example, any of the following, either alone or in combination, may constitute reasonable suspicion:

- i. Slurred speech;
- ii. Irregular or unusual speech patterns;
- iii. Impaired judgment;
- iv. Alcohol odor on breath;
- v. Uncoordinated walking or movement;
- vi. Unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness;
- vii. Possession of drugs or alcohol; and/or
- viii. Observation of drug or alcohol use prior to reporting to work or during working hours.

Reasonable suspicion determinations will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use.

The observing supervisor shall document the events and record the behavioral signs and symptoms that support the reasonable suspicion. If possible, a second supervisor should also observe the employee to verify that there is a reasonable basis to believe that a drug or alcohol violation has occurred.

b. Events After Determination Is Made

When a determination is made that reasonable suspicion exists that an employee is under the influence of drugs or alcohol in violation of this Policy, the employee shall be immediately relieved of her/his duties, pending further action.

The observing supervisor shall immediately notify the department head or other appropriate supervisor if reasonable suspicion is found to exist. Upon review, the department head or other appropriate supervisor may direct or authorize that the employee in question immediately submit to a drug and/or alcohol test.

c. Reports of Possible Violation by Supervisory Personnel

If a non-supervisory employee has reason to believe that a supervisor subject to this Policy is under the influence of drugs or alcohol at work in violation of this Policy, then she/he shall report such potential violation to the Vice President of Human Resources, General Counsel or the Chief Executive Officer who will thereafter take appropriate action.

5. Return-to-Duty Testing

An employee who refuses to take or fails a drug or alcohol test and whose employment is not terminated may not return-to-duty until she/he is evaluated by a Substance Abuse Professional (SAP), passes a drug/alcohol test, and the SAP has determined that the employee may return to work and has completed any recommended treatment.

6. Follow-Up Testing

An employee who is referred for assistance for impairment or being under the influence of drugs or alcohol misuse during work hours may be subject to unannounced follow-up testing for a period not to exceed 60 months, as directed by the SAP. The number and frequency of follow-up testing will be determined by the SAP and the Association but will not be less than six tests in the first 12 months following the employee's return to duty. Follow-up testing will be conducted immediately prior to, during or immediately preceding work time for that employee.

SECTION II. CONSEQUENCES OF VIOLATING POLICY

A. General

Compliance with this Policy is a condition of employment. Refusal to take a required drug or alcohol test, a positive drug or alcohol test, or engaging in an activity or behavior which otherwise violates this Policy shall, at a minimum, result in removal from performing assigned functions. Additional disciplinary action may follow, including termination.

B. Violations and Discipline

The Association may take adverse employment action, up to and including dismissal, based on:

1. a positive drug or alcohol test result;
2. a prospective employee or employee's refusal to provide a drug or alcohol testing sample;
3. an employee's failure to notify the employee's supervisor, before beginning work, that the employee was taking medications or drugs which might interfere with the safe or effective performance of duties;
4. verification of valid current prescription or legal use of such drug is not provided upon request by the next scheduled work day; or
5. misuse of the prescription or other drug; or

6. otherwise violating the terms and requirements of this Policy.

Potential adverse employment action may include one or more of the following:

1. A requirement that the employee enroll in an approved rehabilitation, treatment or counseling program. This program may include additional drug and alcohol testing. Participation in such a program is a condition of employment. Costs of participating in such a program will be borne by the employee;
2. Suspension, with or without pay;
3. Termination of employment;
4. In the case of pre-employment drug/alcohol testing, refusal to hire the prospective employee; and
5. Other or additional adverse employment action, at the election and discretion of the Association.

C. Requirements For Return-To-Duty

An employee who is not terminated for violating this Policy may be given the opportunity to return to work provided she/he first:

1. Receives a return to work evaluation by a SAP;
2. Passes a Return to Work drug and/or alcohol test;
3. Continues to receive negative drug or alcohol test results in follow-up tests after returning to duty; and
4. Participates in and successfully completes any applicable Association approved evaluation/rehabilitation program.

SECTION III. SAMPLE COLLECTION AND SAMHSA TESTING PROCEDURES

A. Collection of Samples

1. Testing under this Policy is a urinalysis (for drugs) and an evidential breath testing device (for alcohol) administered under approved conditions and procedures conducted for the sole purpose of detecting drugs or alcohol. Other on-site methods to detect the presence of alcohol may also be used, including blood/alcohol and saliva tests.
2. The test will be conducted by an Association-appointed medical laboratory and paid for by the Association. Sample collection and testing will be performed under reasonable and sanitary conditions.

3. The collection site shall have all necessary trained personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of specimens to a certified drug-testing laboratory designated by the Association. An independent medical facility may also be utilized as a collection site.
4. All drug test samples will be collected by the split sample collection method. However, if a split sample is not collected, the single sample will be collected and sent to the laboratory for testing.
5. The person collecting the drug sample will document the sample, including labeling the sample to preclude to the extent reasonable the possibility of misidentification of the person tested in relation to the test result provided.
6. The person collecting the sample shall provide the person to be tested with an opportunity to provide medical information that may be relevant to the test, including identifying current or recently used prescription and nonprescription drugs.
7. Sample collection, storage, and transportation to the testing place shall be performed in a manner reasonably designed to preclude the possibility of sample contamination, adulteration or misidentification.
8. An employee designated for testing must provide reliable individual identification to the person collecting the sample.
9. Drug and alcohol tests will be scheduled during the employee's regular work hours. Testing under this Policy is considered work time and will be compensated at the employee's normal rate of pay.
10. Sample collection will be performed in a manner which ensures the individual employee's privacy to the maximum extent consistent with ensuring that the sample is not contaminated, adulterated, or misidentified.
11. The Association will pay the entire actual costs for drug and alcohol testing required of employees and prospective employees. The Association will also pay reasonable transportation costs to an employee if the required test is conducted at a location other than the normal work site.

B. Testing Procedures

1. Unless testing is conducted on-site, the Association shall use a drug-testing laboratory approved or certified by the Substance Abuse and Mental Health Services Administration (SAMHSA).

If Non-Instrumented Drug tests are used then the Collector must perform the on site tests in the presence of the donor. For on-site testing, an employer may only use products approved by the Food and Drug Administration for employee testing and shall use the

products in accordance with the manufacturer's instructions. All presumptive positive tests results must be sent to the SAMSHA Laboratory for confirmation testing before any employment action can be taken.

2. The laboratory shall permit inspections by the Association.
3. The Association may at times use a rapid test kit. If the rapid test is positive, the sample will be sent to the designated laboratory for confirmation.
4. Positive drug tests will be confirmed by a gas chromatography mass spectrometry. The Association will not rely on a positive drug test unless the confirming drug test results have been reviewed by a licensed physician or doctor of osteopathy.
5. Alcohol testing will be performed by a breath alcohol technician (BAT). If the result of an alcohol screening test is an alcohol concentration of .04 or greater, a confirmation test will be performed. The confirmation test will generally be done within 15, but not more than 30, minutes of the screening test. The results of these tests will be reported directly to the Association.

C. Review of Drug Test Results

1. Medical Review Officer

The Association shall contract the services of a Medical Review Officer (MRO). The MRO shall be a licensed physician or doctor of osteopathy. The MRO shall **review all confirmed positive drug test results** and interview individuals tested positive to verify the laboratory report. The Substance Abuse Professional may also evaluate and recommend to the Association whether and when an employee who either refuses to test or tests positive may return to work. Follow-up unannounced drug testing for a period of up to 60 months may be scheduled.

2. Reporting and Review of Results

- a. The MRO shall review confirmed positive test results. This review shall be performed by the MRO prior to the transmission of results to the Association.
- b. The MRO shall contact the employee within 48 hours and offer an opportunity to discuss the confirmed test result.
- c. The MRO will inform the employee that she/he has 72 hours to request a re-test of the split or single sample. A re-test is an analysis of the second split sample bottle or an aliquot of the original sample. The re-test can be sent to a laboratory approved or certified by the Substance Abuse and Mental Health Services Administration. The employee will be responsible

for the costs of the re-test and will be reimbursed by the Association only if the sample comes back negative.

3. Legal Drug Use

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test as negative. Test results that have been caused by appropriate use of prescription medication will be reported as negative.

4. Written Test Results

An employee may obtain a copy of the written test results only upon written request made within six months of the date of the test. The Association will provide the written test results to the employee pursuant to that request within five working days of its receipt.

5. Explanation of Positive Test by Employee

An employee who would like an opportunity to explain a positive test result in a confidential setting must make such a request in writing within 10 working days of being notified of the test result. An employee who submits such a timely written request will be given the opportunity, within 72 hours after its receipt or before the Association takes adverse employment action, to explain the positive test in a confidential setting.

SECTION IV. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Scope of Program

The Employee Assistance Program or the Service Agent will provide education and training on drug and alcohol use to all employees.

The education shall include:

1. Informational material distributed to employees as well as displayed on bulletin boards, employee break rooms, locker rooms, etc;
2. A community service hot line telephone number for employee assistance displayed on bulletin boards and distributed to employees; and,
3. Distribution of this Policy regarding the use of prohibited drugs and alcohol to all employees. The Policy shall be displayed in prominent places throughout the Association (i.e., employee bulletin board, break room, locker rooms).

B. Supervisor Training

Supervisory personnel will receive training regarding this Policy. The training shall include at least 60 minutes of training on the use of controlled substances, and at least 60 minutes of training on alcohol misuse. This training shall be for all supervisors who may determine whether an employee will be drug and alcohol tested for reasonable suspicion.

SECTION V. CONFIDENTIALITY OF RESULTS

A. General

1. All records relating to drug and alcohol testing will be maintained by the Human Resources Department in a confidential medical file in a secure location with controlled access, separate from personnel files.
2. Any communication received by the Association relevant to drug or alcohol test results and received through the Association's testing program is confidential and will not be disclosed by the Association except:
 - a. To the tested employee, prospective employee or another person designated in writing by the employee or prospective employee;
 - b. An individual designated by an employer to receive and evaluate test results or hear the explanation from the employee or prospective employee;
 - c. As ordered by a court or governmental agency; or
 - d. In any proceeding initiated by or on behalf of the individual or the Association arising from a positive test or related to, including but not limited to disciplinary proceedings, whether initiated by the employee, the Association or a third party.

SECTION VI. DRUG PERSONNEL AND SERVICES

1. **SERVICE AGENT (SA)**
Worksafe, Inc.
300 West 36th Avenue, Suite A
Anchorage, Alaska 99503
(907) 563-8378
2. **MEDICAL REVIEW OFFICER (MRO)**
Dr. Mary P. DeMers, D.O., M. P. H.
Worksafe, Inc.
300 West 36th Avenue, Suite A
Anchorage, Alaska 99503
3. **SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA) LABORATORY**

Pathology Associates Medical Laboratory
110 West Cliff Avenue
Spokane, WA 99220

4. **EMPLOYEE ASSISTANCE PROGRAM**
Magellan Health Services
4300 B Street, Suite 202
Anchorage, AK 99503
(907) 562-2812

SECTION VII. DEFINITIONS

Alcohol means ethanol, isopropanol, or methanol.

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.

Alcohol Use means the consumption of any beverage or mixture, including any medication or mouthwash containing alcohol.

Breath Alcohol Technician (BAT) means an individual who operates an EBT and instructs and assists individuals in the alcohol testing process.

Collection Site Person Is an individual authorized by Chugach to collect samples in accordance with this policy and trained in procedures for such collections. Chugach has chosen to follow the highest industry standards for work place collection, testing, and reporting of test results; therefore, Chugach procedures will attempt to follow, as a guide only, the federal drug testing procedures.

Drug(s) means a substance considered unlawful under AS 11.71 or under federal law, or the metabolite of the substance.

Drug Program Manager means the individual appointed by the Association to administer the drug and alcohol testing program.

Drug Testing means testing for evidence of the use of a drug.

Evidential Breath Testing Device (EBT) is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, and is placed on NHTSA's "Conforming Products List" (CPL) of evidential breath measurement devices.

Employee Assistance Program (EAP) means a confidential counseling/referral service for employees and their dependents. EAP is designed to provide assistance to employees and their families to deal with personal problems which may affect their productivity, health, or continued employment. All counseling, assessment, and referral services will be provided by qualified, experienced clinicians with special training in short-term counseling and in assessing and treating substance abuse problems (See SAP).

Failing A Drug Test shall mean the test results show positive evidence of the presence of a drug or drug metabolite in an employee's system in amounts that exceed cutoff levels established by

this policy.

Medical Review Officer (MRO) is the licensed physician or doctor of osteopathy who is responsible for reviewing positive laboratory results generated by the Association’s testing program.

Prospective Employee means a person who has made application to an employer, whether oral or written, to become an employee.

Random means a scientifically valid method that ensures that all covered employees have an equal chance of being selected.

Rapid Test means a test designed to provide an instant screened test result.

Refusal to submit means failure to cooperate and provide a drug or alcohol sample, after receiving notice of the test in accordance with the Association’s Drug and Alcohol Policy. A refusal will be treated the same as a positive test result. A refusal to test for alcohol occurs when a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of Chugach’s alcohol misuse prevention plan or engages in conduct that clearly obstructs the testing process.

Sample means urine or breath from the person being tested.

Screening Test or Initial Test means an analytic procedure to determine whether an employee may have a prohibited concentration of drugs or alcohol in a specimen.

Substance Abuse Professional (SAP) means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (“Certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/ Alcohol & Other Drug Abuse”) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.

III. RESPONSIBILITIES

The Chief Executive Officer shall be responsible for the administration of this policy.

Date Approved: _____

Secretary of the Board