

MINNESOTA MECHANICAL
CONTRACTORS ASSOCIATION

Drug and Alcohol
Policy and Program

Effective January 1, 2007

Drug and Alcohol Policy and Program

The Minnesota Mechanical Contractors Association and its employers recognize that drug and alcohol abuse creates serious problems for workers, their families, the workplace, and the community. The parties further recognize that they need a cooperative and constructive effort to overcome the impact of drug and alcohol abuse on safety, productivity, quality of work, and morale. Also, the signatory parties recognize the keys to this effort will be the providing of education, assistance to the employees and their families, encouraging the employees to receive treatment as needed, and fostering and encouraging an environment that assures all employees are fit for duty while on the job. Therefore in fulfillment of these objectives, the parties have agreed to the following Policy and Program:

1. **USE AND POSSESSION PROHIBITED.** The use, possession, distribution, manufacture or dispensing of unlawful drugs while on duty or during working hours, or reporting for work or working while under the influence of, or impaired by alcohol, controlled substances or any other drug, the unauthorized possession on work premises of alcohol, or unlawful drugs, are strictly prohibited and are all violations of this Policy.
2. **ALCOHOL.** Employees found drinking or possessing alcohol on the job or reporting to work or working under the influence of, or impaired by alcohol, are in violation of this Policy.
3. **DRUGS.** Employees who test positive for drugs or who manufacture, use, distribute, dispense, or possess unlawful drugs, while on or off premises while on duty, are in violation of this Policy.
4. **MEDICAL REVIEW OFFICER.** The parties will appoint a Medical Review Officer (MRO) to administer this Policy. The responsibilities of the MRO shall be to:
 - a. Select and utilize services of a testing laboratory that meets one of the criteria for drug testing established by Minn. Stat. § 181.953 for testing of specimens collected under this Policy.
 - b. Provide specimen test kits and collection locations that follow chain of custody collection techniques mandated by Minn. Stat. § 181.953.
 - c. Maintain appropriate systems, records, and administrative procedures to provide participating employers with accurate and timely information as to the drug and alcohol free status of employees.

- d. 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.
- e. Review and verify a confirmed positive test result and process the donor's request for a confirmatory retest of the original sample.
- f. Review a participating employee's medical record if so requested by the employee.
- g. Refer individuals testing positive to the appropriate medical evaluation and participate in return to duty decisions as set forth in this Policy.
- h. Ensure the Drug and Alcohol Policy and Program complies with Minn. Stat. § 181.950 et seq.

5. TESTING. All employees are subject to testing for the presence of alcohol and drugs. All testing will be according to this Policy or otherwise in compliance with Minn. Stat. § 181.950 et seq. and other applicable laws concerning drug and alcohol testing. Testing procedures are intended to protect individual privacy, ensure accountability and integrity of the specimens, and to provide confidentiality of test results. Testing procedures shall be according to the standards established in Minn. Stat. § 181.953, Subd. 1 and 3, for the purpose of measuring the presence or absence of drugs, alcohol or their metabolites in the sample tested.

All alcohol testing shall be conducted by an independent laboratory authorized to conduct alcohol testing under Minn. Stat. § 181.953. The applicable alcohol threshold level for a positive test shall be a concentration of .08% or more. A confirmed positive test is a violation of this Policy.

All drug testing shall be conducted by an independent laboratory authorized to conduct drug testing under Minn. Stat. § 181.953. The applicable drug threshold level for a positive test has been established by an independent laboratory in accordance with Minn. Stat. § 181.953 et seq. and those levels are referenced as attachment "A".

6. RIGHTS OF EMPLOYEES AND TESTED EMPLOYEES.

- a. Before requesting an employee to undergo drug or alcohol testing, the employer shall provide the employee with a form on which to acknowledge that the employee has seen the drug and alcohol testing Policy.

- b. Within three (3) working days after receipt of a drug or alcohol test result report from a testing laboratory the tested employee shall be notified in writing of all test results. The tested employee shall be provided with a copy of the test result report.
- c. If an employee tests positive for drug or alcohol use, the employee shall be given written notice of 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. Within three (3) working days after notice of a positive test result on a confirmatory test, the employee may submit additional information to the information already submitted under paragraph (c), to explain that result.
- e. An employee who tests positive on a confirmatory test will have five (5) working days following the date which the employee is notified of the confirmatory test result to advise, in writing of the employee's desire to request a confirmatory retest of the original sample at the employee's own expense.
- f. Unless a positive test result is confirmed as positive, it shall be deemed negative and reported by the laboratory as such.
- g. The company will bear the costs of all testing procedures except for confirmatory retests requested by employees.
- h. Refusal to test or provide an adequate sample when required by this Policy shall constitute insubordination and is a violation of this Policy and that person will be considered ineligible until a negative test is provided.
- i. Any specimen altered by the employee will be considered a positive drug screen and therefore a violation of this Policy. Any specimen altered by the employer will be considered a negative drug screen.

7. EMPLOYEE TESTING.

- a. Pre-Placement Testing: A pre-placement drug test may be administered to all applicants for employment pursuant to Minn. Stat. § 181.951, Subd. 2, provided a conditional offer of employment has been extended. If pre-placement testing is conducted, all applicants conditionally offered employment must be tested. The employee will be provided a list of approved collection stations by the MRO.

Employees who undergo pre-placement testing will not be subject to an alcohol test in accordance with Minnesota Non-Work Activity Statute Minn. Stat. § 181.938 et seq.

An employer may withdraw a job offer made contingent on the applicant passing a drug test where an applicant tests positive for drugs on an initial screening test that has been verified by a confirmatory test or where an applicant refuses to submit to a test or alters a test sample.

No employee who previously, pursuant to this Policy, has been subjected to a drug test, the verified results of which were negative, shall be requested or required to undergo a pre-placement test pursuant to this Policy.

- b. Reasonable Suspicion: Employees will be tested for the presence of drugs and alcohol if there exists a “reasonable suspicion” that the employee is under the influence of drugs or alcohol. The conduct of the employee must be witnessed by at least two supervisors or other employer officials, if feasible. If not feasible, only one supervisor or employer official need witness the conduct. The witness or witnesses must have received training in the identification of actions, appearances, or conduct which are indicative of the use of drugs, or alcohol. All tests shall be performed in accordance with this Policy and in a non-discriminatory manner. 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. Refusal to submit to an employer request for reasonable suspicion testing for the presence of alcohol or drugs shall constitute insubordination and is a violation of this Policy. An employee tested for reasonable suspicion shall be suspended with pay pending the outcome of the results. A confirmed positive test is a violation of this Policy.

- c. Post Incident Testing: Employees shall be tested for the presence of drugs or alcohol if the employee sustains a personal injury, as that term is defined in Minn. Stat. § 176.011, Subd. 16, or has caused another employee to sustain a personal injury or has caused a work-related accident or was operating or helping to operate power tools, machinery, equipment, or vehicles involved in a work-related accident. An employee subject to accident testing may be suspended pending the outcome of the results. Refusal to submit to an employer request for post-incident testing for the presence of alcohol or drugs shall constitute insubordination and is a violation of this Policy. A confirmed positive test is a violation of this Policy. Any employee having a negative test for incident testing will receive full back pay.

- d. Safety Sensitive Testing: Under Minn. Stat. § 181.950, Subd. 13, safety-sensitive position means a job, including any supervisor or management position, in which an impairment cause by drug and alcohol usage would threaten the health or safety of any person. By nature of Pipe Trades work, all work performed by Pipe Trades employees is safety sensitive within the meaning of Minn. Stat. § 176.011, Subd. 16. Refusal to submit

to a random test for the presence of alcohol or drugs shall constitute insubordination and is a violation of this Policy. All random testing selection will be done by the MRO/Policy Administration. No more than twenty percent of the employees per year in safety-sensitive positions will be subject to drug and alcohol testing on a random selection basis.

- e. Work Opportunity Testing: All members are subject to testing required by a project bidder or government requirement of a contracted job, or as required by federal or state law, that subjects all similarly situated employees to testing.
- f. Treatment Program Testing: Any one who has been referred for chemical dependency evaluation or treatment, or who is participating in a chemical dependency program is subject to drug and alcohol testing 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.
- g. Other Testing Guidelines: Under some circumstances the employees 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 more strict or specific this Policy shall control, unless expressly preempted or exempted by law. There shall be no other drug or alcohol testing required as a condition of employment.
- h. Testing may be accomplished by “quick test” at the collection site. Quick tests will allow results to be obtained, typically, within 2 – 4 hours of the test, allowing the member to begin work quickly. Any non-negative test result on the quick test will require additional testing at Medtox labs.
- i. Privacy and Accountability: Testing procedures are intended to protect individual privacy, ensure accountability and integrity of the specimens, and to provide confidentiality of test results.
- j. Payment of Wages: (1) Any employee required by an employer to provide a specimen(s) for drug or alcohol testing during scheduled work hours will be paid compensation and fringe benefits for the actual time away from work. Any employee who is required to provide a specimen(s) for drug or alcohol testing on the employee’s own time will be paid two hours of wages and fringe benefits at the employee’s straight-time hourly rate. (2) Any employee required by an employer to provide a specimen(s) for drug or alcohol testing during scheduled work hours and who uses a personal vehicle at the request of the employer to transport the employee from shop or job to the collection site or from the collection site to the shop or job is entitled to mileage per their respective collective bargaining agreement. Employees who are required to provide a specimen(s) on the employee’s own time and are compensated two hours of wages and fringe

benefits at the employee's straight-time hourly rate are not entitled to payment for mileage.

- 8. LEAVING THE WORK SITE.** During an investigation involving the 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 insubordination and is a violation of this Policy.
- 9. TEST RESULTS.** The employee shall be provided copies of all test result reports within three (3) working days after receipt of a test result report from a testing laboratory.
- 10. CONFIDENTIALITY.** Test result reports and other information acquired in the drug or alcohol testing process are private and confidential information and may not be disclosed by the employer or laboratory conducting the test to any other employer or to a third party, individual, governmental agency, or private organization without the written consent of the employee tested.
- 11. TREATMENT/EMPLOYEE ASSISTANCE PROGRAM.** This Policy recognizes that drug and alcohol dependency is a treatable health problem. Employees needing assistance in dealing with such a dependency are encouraged to consult with the Employee Assistance Program 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.

The Parties encourage treatment for any drug or alcohol dependency and this Policy is implemented to encourage 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 Employee Assistance Program ("EAP") will be available to all active employees. Details of the EAP are available through the EAP and the employee's Health and Welfare Plan. All inquiries are confidential.

- 12. RE-EMPLOYMENT/RE-ENTRY INTO THE WORKFORCE.** An employer may not discipline or discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the employer unless the employee has first been given an opportunity to participate in a drug or alcohol evaluation and then a counseling or rehabilitation program if the evaluation so indicates. If the employee refuses to participate in either the evaluation or the counseling or rehabilitation program or fails to successfully complete the counseling or rehabilitation program the employee will be terminated. If the employee satisfactorily passes the evaluation

or rehabilitation program and produces a negative drug test, the employee will be returned to work.

13. POLICY VIOLATIONS. Unless otherwise set forth herein, all violations of this Drug and Alcohol Policy and Program shall be cause for discipline, up to and including discharge.

14. CONDITIONS OF EMPLOYMENT. Compliance with this Policy is a condition of employment. With regard to this Policy any failure or refusal of an employee to cooperate fully, sign the Minnesota Mechanical Contractors Association Drug and Alcohol Policy and Program Acknowledgement Form and the Consent and Release of Information Form, and submit to any test (under this Policy), will be a violation of this Policy.

15. NO LITIGATION. The employers agree not to engage in any litigation against the signatory local unions in connection with any aspect of this Policy. Furthermore, the employers agree the union is not responsible for ascertaining or monitoring the drug-free or alcohol-free status of any employee or applicant for employment.

16. 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 employee's Collective Bargaining Agreement.

17. FEDERAL PREEMPTION. This Policy does not apply to employees where the specific work performed requires those employees to be subject to federal drug and alcohol testing in accordance with Minn. Stat. § 181.957.

Minnesota Mechanical Contractors Association

Steven G. Pettersen
Executive Vice President

Date:

APPENDIX “A” – Drug testing threshold levels

DRUG TYPE AND CUT-OFF LIMITES. Employees may be tested for the following drugs and/or their metabolites at the following cut-off limits:

Initial Drug Test Level	
	(ng/mL)
Marijuana metabolites*	50
Cocaine metabolites*	300
Opiate metabolites*	2,000
Phencyclidine*	25
Amphetamines*	1,000
Barbiturates	300
Methaqualone.....	300
Benzodiazepines	300
Methadone.....	300
Propoxyphene	300

Confirmatory Drug Test Level	
	(ng/mL)
Marijuana metabolite* \1\	15
Cocaine metabolite* \2\	150
Opiates*	
Morphine.....	2,000
Codeine	2,000
6-Acetylmorphine* \3\	10
Phencyclidine*	25
Amphetamines*	
Amphetamine	500
Methamphetamine \4\.....	500
Barbiturates	300
Methaqualone	100
Benzodiazepines	300
Methadone.....	300
Propoxyphene	300
Alcohol, Etheyl**	0.08%

\1\ Delta-9-tetrahydrocannabinol-9-carboxylic acid.

\2\ Benzoylcegonine.

\3\ Test for 6-AM when the morphine concentration is greater than or equal to 2,000 ng/mL.

\4\ Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/mL.

*Cut-off limits are established by the Department of Health and Human Services in their mandatory Guidelines for Federal Workplace Drug Testing Programs. This list of drugs and cut-off limits are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these and

additional substances at other concentrations. Such changes shall be deemed to have been incorporated into this Policy upon announcement by the Department of Health and Human Services of such changes.

**Any report in excess of .08% shall be considered above the impairment level.

Any adulterated specimen (as determined by the MRO) will be considered a positive drug screen and therefore a violation of this Policy. In addition, all costs incurred for laboratory examination of the adulterated sample will be the responsibility of the donor.