

Beartooth Electric Cooperative, Inc.

EMPLOYEE RELATIONS POLICY NO. 512

1. SUBJECT: ALCOHOL AND DRUG FREE WORKPLACE - DOT

2. PURPOSE:

- 2.1. Beartooth Electric Cooperative, Inc. (BEC) is committed to employee safety and health, and prohibits the use or being under the influence of alcohol, illegal drugs and controlled substances in the workplace. BEC is committed to providing a workplace that is free from the use, sale, possession or distribution of illegal drugs or the improper or abusive use of prescription drugs, and over the counter medications or alcohol.
- 2.2. BEC has employees that are not covered by the Department of Transportation (DOT) regulations. Therefore, BEC must maintain two (2) Alcohol and Drug policies. The DOT policy will ensure BEC complies with Federal law as set forth under the DOT, 49 CFR Part 40 regarding alcohol and drug testing of those employees subject to DOT testing requirements. BEC policy will provide standards for all other employees who are not covered under the DOT policy.

3. OBJECTIVE:

- 3.1. To comply with DOT Regulation 49 CFR, Part 655, as amended, 49 CFR Part 40, as amended, and 49 CFR Part 382, as amended. All alcohol and drug testing is conducted in accordance with these regulations.
  - 3.1.1. Electronic copies of Parts 382, 655 and 40 are available in BEC's office in Red Lodge, Montana. They can also be found on the internet at the Office of Drug & Alcohol Policy & Compliance's website <http://www.dot.gov/odapc/index.html>.
- 3.2. To eliminate the use of drugs or alcohol by employees, subcontractors or their employees, or others and deter substance abuse and drug related paraphernalia in the work place.
- 3.3. To comply with contractual obligations of customers, state or federal agencies or to city, county, state and federal substance abuse laws.
- 3.4. Guidelines:
  - 3.4.1. Covered employees under this policy are all employees with the job description of superintendent, foreman, sub-foreman, lineman, warehouseman or any employee with a CDL that might drive on an as-needed/temporary basis for BEC.
  - 3.4.2. All covered employees are required to submit to alcohol and drug tests as a

condition of employment.

3.4.3. Covered employees require the possession of a commercial driver's license (CDL); every employee, any applicant and/or transferee who performs or who will perform a "safety- sensitive function" as defined herein.

3.4.3.1. An employee is performing a safety-sensitive function if they are:

3.4.3.1.1. Driving a commercial motor vehicle which requires the driver to have a commercial CDL.

3.4.3.1.2. Inspecting, servicing or repairing any commercial motor vehicle.

3.4.3.1.3. Waiting to be dispatched to operate a commercial motor vehicle.

3.4.3.1.4. Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments being loaded or unloaded.

3.4.3.1.5. Performing driver requirements associated with an accident.

3.4.3.1.6. Repairing, obtaining assistance or remaining in attendance upon a disabled commercial motor vehicle.

### 3.5. Contact Personnel

3.5.1. An employee who has questions regarding alcohol misuse and anti-drug use, or this policy should contact the General Manager.

### 3.5.2. Prohibited Substances

3.5.2.1. Marijuana

3.5.2.2. Cocaine

3.5.2.3. Amphetamines

3.5.2.4. Opiates

3.5.2.5. Phencyclidine

3.5.2.6. Alcohol

3.5.2.7. Any other illegal and/or dangerous drug as defined in 49 CFR Part 40

### 3.6. Testing Procedure

3.6.1. All testing will be conducted as required in 49 CFR Part 40, as amended.

### 3.7. Pre-Employment

3.7.1. Alcohol and drug tests are conducted after making a contingent offer of employment or transfer. All final employment candidates must successfully pass pre-employment tests prior to beginning work for BEC. If the pre-employment tests are verified as positive, adulterated or substituted, the candidate is disqualified for the position.

### 3.8. Reasonable suspicion

3.8.1. BEC shall conduct alcohol and drug tests when it has reasonable suspicion to believe that the covered employee has engaged in alcohol misuse and/or used a prohibited drug.

3.8.2. The determination that reasonable suspicion exists shall be based on specific observations concerning the appearance, behavior, speech or body odors of the covered employee. A supervisor, manager or other BEC official who is trained in detecting the signs and symptoms of alcohol misuse and drug use must make the required observations.

3.8.3. BEC may direct a covered employee to undergo reasonable suspicion testing only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

3.8.4. If a test is not administered within two hours following the determination to conduct a reasonable suspicion test, the supervisor shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test is not administered within eight hours following the determination to test, cease attempts to administer an alcohol test and update the record with the reasons for not administering the test.

3.8.5. A written record shall be made of the observations leading to alcohol or controlled substances reasonable suspicion test, and signed by the supervisor and/or manager who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

3.9. Post-Accident

3.9.1. Covered employees are required post-accident alcohol and drug testing under the following circumstances:

3.9.1.1. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, shall test for alcohol and controlled substances for each surviving driver:

3.9.1.2. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

3.9.1.3. Who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

3.9.1.3.1.1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

3.9.1.3.1.2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

3.9.1.4. Who receives a citation within 32 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

3.9.1.4.1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

3.9.1.4.2. One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

3.10. The following table notes when a post-accident test is required to be conducted

Type of Accident Involved	Citation Issued to Commercial Motor Vehicle Driver?	Alcohol and Controlled Substance Test Required
Human fatality	Yes	Yes
	No	Yes
Bodily injury and immediate	Yes	Yes

Medical treatment away from the scene.	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

### 3.11. Alcohol Post-Accident Testing

3.11.1. Must be administered within two (2) hours following an accident. If not administered within two (2) hours following an accident, the supervisor/manager must prepare and maintain on file a record stating the reasons the test was not properly administered. If a test is not administered within eight (8) hours after the accident, the manager shall cease attempts to have the alcohol test administered and prepare and maintain on file a record stating the reasons the test was not done within said eight (8) hours.

### 3.12. Controlled Substances Post-Accident Testing

3.12.1. Must be administered within 32 hours following an accident. If not administered within 32 hours following an accident, the supervisor/manager shall cease attempts to have the controlled substances test administered and prepare and maintain on file a record stating the reasons the test was not done within said 32 hours.

3.12.2. An employee subject to post-accident testing shall remain readily available for such testing, including notifying his/her supervisor of his/her location if he/she leaves the accident scene. An employee who fails to do so shall be deemed to have refused to submit to testing. Nothing herein shall be construed to require the delay of necessary medical attention for the injured or to prohibit an employee from leaving the accident scene for the time period required to obtain emergency assistance.

3.12.3. BEC may, in its discretion, require testing if there is \$1,500 or less of property damage.

### 3.13. Random Testing

3.13.1. Dates for administering random alcohol and drug tests are done quarterly throughout the calendar year and are unannounced and unpredictable. Random testing must be conducted at all times of day when safety-sensitive functions are performed.

3.13.2. Testing rates will meet or exceed the minimal annual percentage rate set by the DOT Administrator.

3.13.3. The selection of employees for random alcohol and drug testing are made by a

computer-based random number generator that is matched with employees' Social Security numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

3.13.4. Each employee selected for testing shall be tested during the selection period. A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

3.13.5. BEC management will coordinate the random testing. The selected employee, who has been selected for testing will be notified by his/her supervisor who will confirm the date and time when the employee is to be notified for testing. All screening results will be directed to BEC.

3.13.6. Each employee selected for testing shall be tested during the quarter period. The employee's supervisor will notify the employee of their selection when they report to work. Once notified, the employee must submit to a random Alcohol and Drug test by immediately reporting to the testing facility. The employee should arrive to the testing facility within 2 hours, or within a "reasonable time" due to distance, driving and weather conditions.

3.14. Test Refusal- you have refused if you have:

3.14.1. Failed to provide a breath or urine sample

3.14.2. Provided an insufficient volume without valid medical explanation

3.14.3. Adulterated or substituted a specimen

3.14.4. Failed to appear within a reasonable time

3.14.5. Left the scene of an accident without just cause prior to submitting to a test

3.14.6. Left the collection facility prior to test completion

3.14.7. Failed to permit an observed or monitored collection when required

3.14.8. Failed to take a second test when required

3.14.9. Failed to undergo a medical examination when required

3.14.10. Failed to cooperate with any part of the testing process

- 3.14.11. Failed to sign Step 2 of alcohol test form
- 3.14.12. Once test is underway, failed to remain at site and provide a specimen
- 3.14.13. Or the MRO (Medical Review Officer) verifies that you provided an adulterated/substituted sample.
- 3.15. Refusal to submit to testing will be cause for termination of employment.
- 3.16. Prohibited Conduct
  - 3.16.1. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
  - 3.16.2. Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee must take an alcohol test, if the covered employee claims ability to perform his or her safety-sensitive function.
  - 3.16.3. BEC will not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
  - 3.16.4. Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
  - 3.16.5. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident alcohol/drug test, whichever occurs first.
  - 3.16.6. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 3.17. Consequences
  - 3.17.1. Following a positive alcohol (BAC at or above 0.04) or drug test result or test refusal, the employee is immediately removed from safety-sensitive duties, referred to a substance abuse professional (SAP), and will be terminated from employment.
  - 3.17.2. Following a BAC of 0.02 or greater, but less than 0.04, the employee is

immediately removed from safety-sensitive duties and will be suspended without pay for their next two (2) scheduled shifts. The employee may not drive any earlier than the commencement of their next regularly scheduled shift following the two (2) shifts for which they were suspended or 24 hours following the administration of the test, whichever is longer. The employee may be subject to further disciplinary action.

### 3.18. Employee Admission of Alcohol & Controlled Substances Use

3.18.1. The employee may not self-identify in order to avoid testing.

3.18.2. The employee must admit to alcohol misuse or controlled substances use prior to reporting for duty.

3.18.3. BEC attempts to provide employees the opportunity to deal with Alcohol/Drug-related problems. Any employee who self-identifies and voluntarily requests assistance in dealing with an Alcohol and/or Drug problem is urged to seek professional counseling for an assessment and, if appropriate, to enter a treatment program. Generally, employees who self-refer to such programs before work performance problems arise are not disciplined.

3.18.4. The employee is removed from performing safety-sensitive functions until BEC is satisfied that the employee has been evaluated and has successfully completed education and/or treatment requirements.

3.18.5. The employee may return to safety-sensitive duties only upon successful completion of an education or treatment program, as determined by an alcohol and drug abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified alcohol and drug counselor.

3.18.6. Prior to the employee participating in a safety-sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and a controlled substance test with a verified negative test result for controlled substances use.

3.18.7. Employees electing voluntary rehabilitation are required to submit to follow-up testing and any other alcohol and drug screening in accordance with the current BEC Alcohol & Drug Policy. Refusal to submit to a valid screening sample request or positive results of such screening will subject the employee to termination of employment.

### 3.19. Prescription Drug Use

3.19.1. The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited. It is however, the employee's responsibility to inform the



physician of the employee's job duties and determine from the physician, or other health care professional, whether or not the prescribed drug may impair their job performance or mental or motor function. It is the responsibility of the employees to remove themselves from service if they are unfit for duty.

3.19.2. BEC requires employees to report the use of medically authorized drugs or other substances that may create a direct threat by impairing job performance of safety-sensitive functions to his/her supervisor and provide proper written medical authorization to work from a physician.

3.19.3. Failure to report the use of such drugs or failure to provide proper evidence of medical authorization may result in disciplinary action.

3.20. Drug Free Work Place Act of 1988

3.20.1. In accordance with the Drug Free Work Place Act of 1988, an employee who is convicted of any criminal drug statute for a violation occurring in the work place shall notify the General Manager, no later than five (5) days after such conviction.

4. RESPONSIBILITY:

4.1. The General Manager shall ensure that the provisions of this policy are followed.

Adopted: 08/31/2012  
Revised: 06/30/2015  
Reference:  
Review Date: June 2017

Attest: /s/ Richard Nolan  
Secretary/Treasurer

Attest: /s/ Roxie Melton  
Board President