

WorkSafe *ink*

The official newsletter of WorkSafe, Inc. Providing workplace drug and alcohol testing. NOVEMBER 2004



Do your research before choosing a provider

Mathew Fagnani, C-SAPA, C-SI, President

WorkSafe acquired the client list of another third-party administrators drug testing company that recently went out of business. After reviewing each of the clients' records, we found that the past service provider did not maintain regulatory compliant programs with either the federal or state drug testing rules. The review determined that there were not active random programs for the owner-operator, individual companies or consortiums. As a result, they did not conduct any random generations or provide required statistics.

Due to the complexity of the clients and the multi-modal involvement, WorkSafe consulted with DOT in Washington, D.C., for an interpretation of 49 CFR part 40 and 49 CFR part 382 and 46 CFR 16. DOT confirmed that it is always the company's responsibility to remain in compliance with the federal drug testing regulations. The U.S. Coast Guard commented that there are five similar cases like this under investigation in the United States. Each one is being reviewed for possible action.

As a result of the service agent's failure to perform, each company will have to re-test all employees for a new pre-employment test. Once re-tested and the negative test result is provided to each employer, they will have to conduct the appropriate number of random tests before December 31, 2004. This situation is far from acceptable. Anytime a service agent

conducting drug and alcohol testing fails to perform its duties, it has a negative ripple effect throughout the industry.

Any company using a third-party administrator (service agent) must ensure that they are receiving the contracted services. Federal regulations require each company to verify that their service agent providers (third-party administrators, medical review office, collection sites, laboratories and SAPs) meet the required statewide training and certification statewide. Although third-party administrators do not have any federal training requirement it is every third-party administrators' professional responsibility to maintain their own education level and professional certification. Certification is available from associations such as the Substance Abuse Program Administrators Association (SAPAA). Knowledge of the regulations, experience writing policies and determining the course of action during uncommon events are some of the factors that separate a professional in the drug-testing industry and a common provider of services. WorkSafe has three Certified Substance Abuse Program Administrators and two Certified Trainers (C-SAPAs, C-SIs) who have the knowledge and experience to assist companies to stay in compliance.

In addition to certifications, companies should visit their third-party administrators and other service agents. Taking a

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"If you smoke pot, you can't work here."

By Commissioner Greg O'Claray
Alaska Department of Labor and Workforce Development

Pre-election opinion piece; reprinted courtesy of Commissioner O'Claray.

If you're looking for work in Alaska, don't be surprised to hear these words: "If you smoke pot, you can't work here."

The folks who might say those words - human resource managers - screen and hire new employees for Alaskan businesses, industries, government agencies and non-profits. Most of them want nothing to do with you if you use marijuana and other illegal drugs.

Pot smokers and dopers can forget about another long list: the jobs and professional careers in Alaska that automatically reject applicants who test positive for illicit drugs. A small sample of those careers includes barge and ferry boat captains, commercial airline and bush pilots, police, troopers and security personnel, heavy equipment operators and mine workers. And the list goes on.

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Good management = good safety results

By Chris Ross, CSP General Manager NANA Training Systems



Sure, everyone says that "Safety is number one," or "Safety is everybody's business," but just what does that mean? And if safety is truly important at your company, what is your role as owner or manager?

The management role in safety sets the tone for the entire operation. Without commitment from the top, the safety process is just lip service and you will never achieve good results. According to Kemper Insurance, if managers seldom notice hazards or comment on safety during site walk-through inspections, if safety is seldom discussed with supervisors, if management's priorities do not clearly and consistently include safety, if there is a written policy, but not followed - all these signal management's lack of commitment to effective loss control.

Another key area to examine is how well safety is integrated into your company's operations. If "safely" is how things are done versus "safety" being a separate concern, you are on the right track. Really safety should just be a part of your regular way of doing business, not something that is occasionally focused on when times get tough.

Here are some things that you can do as an owner or manager to set the tone for good safety performance at your company:

- Define and assign responsibilities and accountabilities.
- Establish objectives and measure performance.
- Involve supervisors.
- Involve employees.
- Provide training.
- Enforce your safety rules.
- Integrate your efforts.
- Support team efforts.

With safety commitment at the top, company goals will be easier to achieve!

NANA Training Systems provides quality training, consultation and safety program services. Contact us for assistance with your safety program or to schedule training at 877-561-3449 (Anchorage local 565-3300). Or visit us on the web, www.nana-nts.com or e-mail training@nana.com.

"If you smoke pot..." continues from page 1

If you think you can just not smoke pot for a few days before going in for the pre-employment drug screening, think again. That might work once. But it's why employers also implement random drug screening. Maybe tomorrow, in a week or a month; sooner or later you'll be unemployed again and out the door. In a lot of personnel offices, that door will slam hard and permanently behind you.

If you want information on how drug use can affect your health, talk to your doctor. If you want to know what impact drugs and alcohol have on crime, talk to a cop. If you want to know statistics on how drugs and alcohol affect Alaska families, talk to the people on the front lines of dealing with child abuse. And if you're a breadwinner, you better think long and hard about your family's future before you make the wrong "lifestyle choice."

I recently went on the Internet just look for reasons why people might want to smoke pot. One website listed all of the jolly rewards of marijuana use, including "the medicinal benefits of the cannabis plant." But then the website blew it for me: "Mostly, though," it said, "it's about the freedom to get stoned."

My message about your freedom is simple. Your lifestyle is your business as long as your choices don't endanger the person standing next to you on the job. But if your lifestyle interferes with workplace health and safety, that's your employer's business. The Department of Labor's primary interest is protecting workers' safety on the job and monitoring legitimate claims for unemployment benefits should you lose your job due to misconduct. The penalties range from monetary sanctions to criminal prosecution. A very sobering thought indeed.

If you're looking for work in Alaska, be prepared to hear these words: "If you smoke pot, you can't work here."

By all "accounts" she's great!

The numbers are in and Diane Owens will stand by them. What more can you ask for in an accounting manager. WorkSafe is lucky to have Diane as part of our management team. Besides she has a great smile.



Coast Guard enforcement broadens

ANCHORAGE, Alaska-Coast Guard personnel, who work with the maritime industry, are responsible for ensuring compliance with federal regulations.

One of the enforcement tools available to the Coast Guard is the ability to write on-the-spot fines for certain violations, much like a parking ticket. Recent federal rulings have increased the types of these violations.

These tickets, officially known as a Notice Of Violation (NOV), have been in use for several years. They are typically used for small oil spills and oil spill equipment violations. On-the-spot fines can now be written for violations of the drug and alcohol program, marine casualty reporting, and, vessel arrival notifications.

These new fines are quite hefty from \$1,000 to \$10,000 depending on the type and severity of the violation. These amounts were established along with



Did you know...

Up to 40 percent of industrial fatalities and 47 percent of industrial injuries can be linked to alcohol consumption and alcoholism.

new rules and many of the fines are "fixed," much like a parking ticket. Coast Guard personnel may issue the NOV once it is established that a violation has occurred.

Some areas now under the NOV program, like drug and alcohol testing and marine casualty reporting, have been in place for many years and are not new to the marine industry.

The Coast Guard in Alaska encourages mariners and companies who have questions to contact their local Marine Safety Office.

"...choosing a provider" continues from page 1 first-hand look at random programs and the technology used will help companies better understand how their programs are managed. Each company should receive regular correspondence from their third-party administrators as well. Correspondence should consist of random notifications, employee list, regulatory updates and other information that may affect their drug program. Being a third-party administrator is a serious profession.

After 17 years of providing third-party administrator services, these type of situations cause WorkSafe to be more committed to our customers. Our customers know that the WorkSafe name stands for value, integrity, and professionalism. We know we work in an industry that is easy to get started in with little or no capital. At WorkSafe, we have a commitment to value. We will continue to provide our clients the assurance that we stand behind the work we do. **Our records are always open for client review.**

Please contact WorkSafe if you have any questions or concerns.

Legal corner: real cases from the workplace.

9th Circuit upholds constitutionality of random workplace testing

Ruling: Two California transit workers lost their bid to have random drug testing declared unconstitutional. The 9th U.S. Circuit Court of Appeals reversed a District Court ruling and directed the lower court to rule in favor of the employer. (8/5/03)

Summary: Los Angeles Metropolitan Transportation Authority (MTA) employed a husband and wife in positions that occasionally required them to perform safety-sensitive duties. As a result, the couple were subject to random drug testing.

After being asked to submit to testing in 1999, they sued their employer, challenging the constitutionality of the random drug and alcohol testing. In addition, they also sought damages and declaratory and injunctive relief. By the time they filed the suit, the wife had left her job and bought a home in another state. Based on the move, the district court declared the couple's argument moot and dismissed the case. They appealed.

The 9th Circuit reversed the dismissal and remanded the case based on the woman's contention that she left her job due to the drug testing policy and would return if no such policy was in place.

Back in its hands, the district court ruled on the couple's behalf and entered a permanent injunction barring MTA from subjecting them to random drug testing. The MTA and the U.S. Department of Transportation appealed. In its ruling favoring the employer, the 9th Circuit pointed out that it had always upheld as constitutional the random drug testing of employees who may be called upon to perform safety-sensitive tasks, regardless of frequency.

Bottom Line: Regardless of how frequently an employee actually performs a safety-sensitive task, he is subject to drug testing, if he is in a safety-sensitive position.



Our name tells the story. Our record speaks for itself.

A safe, healthy company starts with a drug-free environment. That's why more Alaska companies partner with WorkSafe. WorkSafe helps ensure your company remains safe from drug use and provides the tools and training you need for prevention.

- ✓ Fast turn around means time saving results
- ✓ Convenient on-site post accident or reasonable suspicion testing
- ✓ Local Medical Review Officer services
- ✓ Service when you need it; professionals on-call 24 hours a day
- ✓ Now offering prior employment drug and alcohol background checks



WORKSAFE
OCCUPATIONAL HEALTH & SAFETY

Where workplace
safety starts

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WorkSafe: Your industry expert

WorkSafe, Inc. offers a full spectrum of workplace drug and alcohol program services at its office on 36th and C Street in Anchorage and instant-results testing for your worksite. WorkSafe provides corporate training, drug and alcohol testing consultation services, pre-employment drug and alcohol screening, return-to-duty services and follow-up testing. It also has on-call personnel 24 hours a day if an employer's work shifts require testing availability around the clock. For more information regarding a drug-free workplace, contact WorkSafe at 907-563-8378.



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To request an after hours drug or alcohol test, call 888-227-8642.

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