

LDWA PERSONNEL POLICIES & PROCEDURES

SECTION III: ALCOHOL AND DRUG TESTING POLICY

1. **GENERAL STATEMENT.** It is the policy of LDWA that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance and/or the distribution, dispensation, possession, or use of alcohol in the workplace is expressly prohibited. In order to achieve a drug-free work place, employees may be required to participate in all of the following alcohol and controlled substances testing:
 - A. When an applicant has been extended a conditional offer of employment but before beginning work.
 - B. When there is a reasonable suspicion to believe the employee is in an impaired state.
 - C. When the employee has been involved in an on duty accident or unsafe work practice.
 - D. On a random basis.
 - E. As a condition for return to duty after testing positive for controlled substances or alcohol.
 - F. As part of follow-up procedures to employment related drug or alcohol violations.
2. **SCOPE.** This policy covers all employees of and applicants to LDWA.
3. **DEFINITIONS.**
 - A. **Alcohol.** Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols in methyl and isopropyl alcohol no matter how packaged or in what form the alcohol is stored, utilized or found.
 - B. **Controlled Substances.** Controlled substances are defined as marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines (including methamphetamine) or other substances, which may only be legally obtained and used pursuant to a physician's prescription.
 - C. **On Duty Accident.** Any accident involving the loss of life, or the issuance of a moving traffic citation to the employee.

- D. Positive Test. Any test result showing a blood alcohol content (BAC) of 0.02 or greater or the presence of any controlled substance in the test subject.
- E. Refusal to Submit to Testing. Failure to provide an adequate breath or urine sample without a valid and verified medical explanation, after the employee has received notice that they are being tested and a breath or urine sample is required, or engages in conduct that clearly obstructs the testing process.
- G. Reasonable Suspicion. Knowledge sufficient to induce an ordinarily prudent and cautious man under the circumstances to believe that a prohibited activity is occurring.
- H. Safety Sensitive Duties. Any duties requiring the operation of machinery or to hold a Commercial Drivers License (CDL).

4. POLICY.

A. Testing Notice.

- (1) Before performing any alcohol or drug test authorized by this policy, LDWA, through its designated representative shall notify the employee being tested, verbally or in writing, whether the test being administered is required by the Omnibus Transportation Employees Testing Act of 1991, or whether it is required by this policy.
- (2) LDWA employees who, under LDWA requirements, operate machinery or hold a CDL, are required under rules established by the Federal Highway Administration to be subjected to pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing.
- (3) When conducting any of the above noted tests on CDL employees, LDWA shall provide the employee with the following notice:
 - (a) The drug and/or alcohol test you are being required to take is required under rules established by the Federal Highway Administration pursuant to the Omnibus Transportation Employees Testing Act of 1991.
 - (b) If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination.
- (4) LDWA employees who are not required by LDWA to hold a CDL, but who are employed in safety sensitive positions, while not subject to testing under federal statute, are subject to pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing under this policy.
- (5) When conducting any of the above noted tests on Non-CDL safety sensitive employees, LDWA shall provide the employee with the following notice:

- (a) The drug and/or alcohol test you are being required to take is required by the policies and procedures of LDWA.
 - (b) If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination.

- B. Pre-Employment Testing. LDWA may require a final applicant selected for some positions with LDWA to undergo an alcohol and drug screen test to detect the presence of alcohol and illegal drugs or controlled substances in the body. Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for controlled substances or whose test detects a BAC of .04 or higher may be denied employment with LDWA.
 - (1) Drug and alcohol testing shall be conducted after the selected applicant has been extended a conditional offer of employment but before beginning work.
 - (2) Job announcements and conditional offers of employment for positions which require testing, shall contain the following notice:
 - (a) All applicants selected for employment with LDWA shall be required to take a drug and alcohol test with negative results as a precondition of employment.
 - (b) A positive test result or failure to submit to the required testing shall result in a withdrawal of any conditional offer of employment with LDWA.
 - (3) If the final applicant tests positive for drugs of alcohol as set forth above, or refuses to submit to testing as defined by this policy, the conditional offer of employment shall be withdrawn in writing and the applicant shall not be employed by LDWA.

- C. Prohibited Conduct.
 - (1) Employees shall not use, be under the influence of (.02 BAC), or be in possession of alcohol while on duty, on LDWA premises or while in LDWA vehicles. LDWA premises include buildings, parking lots, grounds and vehicles owned by LDWA or personal vehicles being used for LDWA business.
 - (2) Employees shall not use, be under the influence of, be in possession of, or be in such a condition as to test positive for alcohol or controlled substances while on duty, within or outside of LDWA Limits or while in LDWA vehicles. LDWA premises include buildings, parking lots, grounds and vehicles owned by LDWA or personal vehicles being used for LDWA business.
 - (3) Employees using, possessing, distributing, dispersing, or being at the workplace under the influence of alcohol or illegal or illegally obtained/used controlled substances shall be subject to questioning and disciplinary action, including termination.

- (4) Any employee violating this policy may be subject to immediate termination.

D. Reasonable Suspicion Drug/Alcohol Testing.

- (1) When the LDWA supervisor makes a determination that there is reasonable suspicion to believe that an employee is using, is under the influence or, or is in possession of alcohol or controlled substances during duty time, the employee shall be subject to drug/alcohol testing.

- (a) The supervisor making the determination that reasonable suspicion exists shall submit written documentation setting forth the specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the driver, which resulted in the reasonable suspicion determination. Reasonable suspicion of use of a controlled substance may also be based on observation of indications of the chronic and withdrawal effects of controlled substances.

- 1. The required observations underlying reasonable suspicion testing must be made by or reported to the LDWA Board.
- 2. Observations underlying the reasonable suspicion testing must be documented in writing by the supervisor and signed by the LDWA Board or their designee within twenty-four (24) hours or before the results of the test are announced, whichever is later.

- (b) Reasonable suspicion testing may be performed by a certified medical facility.

- (2) Special requirements associated with reasonable suspicion alcohol testing.

- (a) Alcohol testing is authorized only if the observations set forth above are made proceeding, during, or just after the performance of safety sensitive functions.

- (b) If an alcohol test is not administered within two (2) hours following the identification of reasonable suspicion, the supervisor shall prepare and maintain documentation stating why the test was not administered within two (2) hours.

- (c) If an alcohol test is not administered within eight (8) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer an alcohol test and shall prepare and maintain documentation stating why the test was not administered within eight (8) hours.

- (3) Special requirements associated with reasonable suspicion drug testing. If a drug test is not administered within thirty-two (32) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer a controlled substance test, and shall prepare and maintain documentation stating why the test was not administered within thirty-two (32) hours.
- (4) Upon required testing due to reasonable suspicion, the employee tested shall not engage in the operation of any LDWA vehicle or equipment, or engage in any employment related duties, which the LDWA Board deems dangerous to themselves or others until the results of the tests are received and the employee is released back to work by the supervisor.

E. Random Testing.

- (1) Employees are subject to random drug/alcohol tests.
- (2) Random tests shall be both of the following:
 - (a) Unannounced.
 - (b) Reasonably spread throughout the year.
- (3) Each employee within a testing pool must have an equal chance of being tested each time a random test is conducted.
- (4) Random Testing. All employees may be subjected to random alcohol and drug tests any time the employee is on duty.

F. Post Accident Testing.

- (1) Any surviving CDL driver involved in an accident resulting a citation for a moving traffic violation or loss of human life, or surviving employee in a safety sensitive position involved in an accident involving the loss of human life, shall be tested as soon as practical for alcohol and controlled drugs.
 - (a) An employee who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing.
 - (b) The results of tests conducted by Federal, State, or Local law enforcement officers having independent authority to conduct tests to detect alcohol or controlled substances may be used by the employer to meet post-accident testing requirements.
 - (c) Time frames for testing and consequences of failure to test:
 1. Alcohol.
 - a. If the test is not administered within two (2) hours following the accident, the supervisor shall prepare and submit documentation stating why the test was not administered within two (2) hours.
 - b. If the test is not administered within eight (8)

hours following the accident, the supervisor shall cease attempts to administer an alcohol test and shall prepare and submit documentation stating why the test was not administered within eight (8) hours.

2. Controlled Substances. If the test is not administered within thirty-two (32) hours following the accident, the supervisor shall cease attempts to administer a controlled substance test, and shall prepare and submit documentation stating why the test was not administered within thirty-two (32) hours.
- (2) Upon required testing due to an accident or reasonable cause, the employee tested shall not engage in the operation of any LDWA equipment or vehicle or engage in any employment related duties, which the supervisor deems dangerous to himself or others until the results of the tests are received and the employee is released to work by the Board.

G. Consequences of Positive Drug/Alcohol Test.

- (1) Alcohol.
 - (a) If any alcohol test result shows a blood alcohol content of 0.02 or greater, the employee shall be removed from, and cannot return to work until, at a minimum, all of the following are met:
 1. The employee undergoes evaluation by a substance abuse professional, and where necessary, rehabilitation.
 2. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
 3. The employee undergoes a return-to-duty test with a result of less than 0.02 BAC.
 - (b) If an employee's test results show an alcohol concentration of greater than 0.02, the employee will be sent home.
- (2) Drug/Controlled Substances. If a drug test result shows that the employee has misused a controlled substance, the employee shall be removed from, and cannot returned to work until, at a minimum, all of the following are met:
 - (a) The employee undergoes evaluation by a substance abuse professional, and where necessary, rehabilitation.
 - (b) The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
 - (c) The employee undergoes a return-to-duty test with a verified negative test result for controlled substances.

- (3) General.
 - (a) If though any of these detection methods or on his initiative, an employee tests positive or seeks rehabilitation treatment, said employee will pay for an initial substance abuse evaluation.
 - (b) LDWA encourages employees to enroll in a counseling or rehabilitation program. An employee will be required to sign a document agreeing to the following conditions in order to remain employed with full rights and benefits:
 - 1. Any employee for whom treatment is recommended will be responsible for costs not covered by insurance. The employee will be required to use accrued compensatory time or PTO leave until all leave is expended. LDWA will pay no PTO time during the allotted treatment time period. Each incident will be reviewed on a case-by-case basis.
 - 2. If a required treatment or rehabilitation program involves confinement, the employee's position may be held for the determined length of the treatment and the employee restored to his former position upon successful completion of the substance abuse rehabilitation. Each incident will be reviewed on a case-by-case basis.

H. Follow-up Testing. Employees who have violated this policy and return to work for LDWA shall be subject to follow up drug/alcohol testing for a period of not less than twelve (12) months and not to exceed sixty (60) months.

- (1) Employees subject to follow up testing may be tested up to six (6) times in the first (1st) twelve (12) months following their return to duty.
- (2) Follow-up testing beyond twelve (12) months may be done up to four (4) times in each 12 month period.

I. General.

- (1) LDWA maintains the right to utilize detection methods necessary for the enforcement of this policy including blood, urine, or other tests, and the use of electronic detection equipment and trained animals.
- (2) Failure to cooperate with these detection methods or inspections is grounds for disciplinary action up to and including termination of employment.
- (3) If an employee has a second positive test, they are subject to disciplinary action up to and including termination of employment.
- (4) Employees may direct any questions regarding this policy to the LDWA Board, or its designee.