



ERIE WATER WORKS ALCOHOL AND DRUG ABUSE PROGRAM

1. STATEMENT OF PURPOSE

The use of illegal drugs and abuse and/or dispensation of other controlled substances, on working hours or off, is inconsistent with law-abiding behavior expected of all citizens and Erie Water Works' Employees. Employees have the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs. Employees who abuse alcohol or drugs are a danger to themselves and to other employees.

2. GENERAL STATEMENT POLICY

- A. Possessing, using, distributing, or being under the influence of prohibited drugs or the misuse of legal drugs while on the job or on/in the EWW's property or at a EWW's facility, is cause for disciplinary action, up to and including termination of employment. Unauthorized use or possession of alcohol, or being under the influence of alcohol while on the job or on/in the EWW's property or an EWW's facility, may be cause for disciplinary action up to and including termination of employment. Recognizing that substance abuse is an illness, it is ordinarily EWW's policy to prevent and rehabilitate rather than terminate the employment of workers who are drug abusers. Employees will not be discharged for substance abuse without first having been offered the opportunity to discontinue use, either through personal choice or by treatment for chemical dependency if such treatment is needed.
- B. "Under the influence" is defined as the presence of drugs and/or alcohol in a person's system at a level prohibited by the EWW. EWW's property includes, but is not limited to any facility, parking lots, EWW's owned or leased vehicles, vessels, and other equipment. Prohibited drugs include, but are not limited to marijuana, hashish, heroin, cocaine, hallucinogens, "designer" or generic drugs, depressants, stimulants, and any other controlled substance not prescribed for current treatment by a licensed physician.
- C. The use of prescribed drugs or over-the-counter drugs which may adversely affect performance or behavior including drowsiness must be reported by the individual to his or her supervisor upon reporting for duty. Prescription drugs and medications should be kept in their original container identifying the drug, dosage, date of prescription and physician. Abuse of over-the-counter or prescribed drugs is prohibited. The supervisor will keep this information confidential, only advising the Human Resources Department on a need-to-know basis.
- D. Employees will be provided with information concerning the impact of the use of drugs on job performance. Employees and supervisors will be trained to recognize the symptoms of drug abuse, impairment and intoxication. In addition,

all employees shall be provided with a copy of the Employer's Drug and Alcohol Abuse Policy. No employee shall be given any drug or alcohol testing until this information is provided to him/her.

- E. The EWW reserves the right to conduct searches for drugs or alcohol on the EWW's property or facility. Employees are expected to cooperate in the conducting of such searches. Searches will be conducted only when there is a reasonable basis to believe that the employee is in violation of this program. Items which may be searched will include Water Works' vehicles, desks, lockers, lunch pails, thermos, toolboxes, or any other EWW's-owned objects that might conceal alcohol or drugs. A Union representative must be present while a search is being conducted.
- F. Medical Marijuana. EWW recognizes that it is lawful in Pennsylvania for certified individuals to possess and use certain forms of marijuana to treat medical conditions and will not discriminate against any employee solely on the basis of his/her certification to use medical marijuana. However, an employee who is under the influence of medical marijuana may pose a serious threat to his/her own safety and/or the safety of others. Employees are prohibited from using or being under the influence of medical marijuana while on EWW premises or anywhere while conducting duties on behalf of the Water Works.

3. DOT REGULATIONS AND MANDATORY TESTING

- A. Adoption of DOT Regulations Mandating Drug and Alcohol Testing. The EWW accepts its obligations under the Omnibus Transportation Employee Testing Act of 1991 (Act) and regulations of the U.S. Department of Transportation (DOT) as they may be amended. The regulations and Act require drug and alcohol testing of those employees of the EWW holding commercial driver's licenses and those persons applying for positions requiring such licenses. This policy is adopted to implement a program required under said DOT regulations as presently found in 49 CFR Part 40, which shall apply without being fully recited herein. DOT regulations establish procedures governing the conduct of breath alcohol testing (BAT), including screening and confirmation tests and establish standards to be followed by BAT technicians conducting the test under said regulations. The EWW expects that breath alcohol technicians will conduct tests and their operations in accordance with applicable DOT regulations.
- B. Mandatory Drug and Alcohol Testing Required. The EWW has a mandatory drug and alcohol-testing program as is required under DOT regulations and the Omnibus Transportation Employee Testing Act of 1991. This Policy shall apply to all employees of the EWW holding commercial driver's licenses (CDL) who either are required by the EWW to hold a CDL and/or who are paid a premium for a CDL. It also applies to all persons applying for employment positions with the EWW, which require commercial driver's licenses. Testing shall include breath alcohol and urine testing. Testing samples shall be analyzed for at least the following substances: alcohol, marijuana (THC Metabolite), cocaine, amphetamines, opiates (including heroin) and phenylcyclidine (PCP), subject to future amendment of DOT regulations and with provisions of this Policy.

4. TYPES OF DRUG AND ALCOHOL TESTING.

All employees will be fully informed of the Employer's policy before testing is administered. Drug and alcohol testing required under this Policy shall be as follows:

- A. Post-Offer Testing. Applicants selected for employment with the EWW shall be tested for alcohol and drugs prior to commencing employment with the EWW. An applicant testing positive for alcohol and drugs will not be considered further for employment with the EWW.
- B. Random Testing. The EWW shall use a random process based upon Social Security numbers to select at least fifty percent (50%) of its employees holding commercial driver's licenses (CDL Drivers), who shall be tested for the use of controlled substances. Additionally, at least twenty-five percent (25%) of the EWW's CDL Drivers shall be randomly tested for alcohol use in the first year of this Policy. The annual alcohol testing rate shall, under DOT regulations, be based upon the percentage of violations (defined as alcohol tests 0.04% or greater and refusals to test) in the preceding year, such rate to be either 10%, 25% or 50%. Drivers selected on a random basis for alcohol testing shall be required to undergo breath alcohol testing. Notification of random testing will be given to employees immediately prior to the testing; should an employee not be present at the time he or she is selected, notification will be given to the employee upon his or her return to the workplace.
- C. Reasonable Suspicion Testing. Reasonable suspicion testing shall be conducted when there exists a "reasonable suspicion" that the employee to be tested is under the influence of drugs and/or alcohol. The term "reasonable suspicion" shall, for the purpose of this Policy and section, be defined as follows:
 1. Aberrant or unusual on-duty behavior of an individual employee which:
 - a) Is observed on-duty by the employee's immediate supervisor or another employee, and confirmed by the observation of another managerial employee trained to recognize the symptoms of drug abuse, impairment or intoxication. The Human Resources Manager shall investigate the reports. The investigation will include an interview with the employee and witnesses, and all observations will be documented in writing.
 - b) Is the type of behavior which is a recognized and accepted symptom of intoxication or impairment caused by controlled substances or alcohol or addiction to or dependence upon said controlled substances.
 - c) Is not reasonably explained as resulting from causes other than the use of controlled substances (such as, but not by way of limitation, fatigue, lack of sleep, side effect of prescription or over-the-counter medications, reaction to noxious fumes or smoke, etc.).
 2. No reasonable suspicion drug testing may be conducted under this section without the written approval of the employee's Manager, Human Resources Manager or Director, or his or her designee. The management

employee must document, in writing, who is to be tested and why the test was ordered, including the specific objective facts constituting reasonable suspicion leading to the test being ordered, and the names of any source(s) of all of this information. One copy of this document shall be given to the employee before he/she is required to be tested, and one copy shall be provided to the Union immediately. After being given a copy of the document, the affected employee shall be allowed enough time to be able to read and understand the entire document. Failure to follow any of these procedures shall result in the elimination of the test results as if no test had been administered, the testing results shall be destroyed, and no disciplinary action shall be taken against the employee.

3. Once “reasonable suspicion” has been established, the employee may be ordered to submit to alcohol and drug testing in accordance with the procedure set forth below. Refusal to submit to testing after being ordered to do so shall result in disciplinary action.

D. Post-Accident Testing

1. Mandatory DOT Post-Accident Testing for Drivers. Drivers shall be subject to drug and alcohol testing as soon as practicable after a commercial vehicle accident. For purposes of this subsection, an accident is defined as a collision involving either (1) a fatality; (2) bodily injury to any person which required that person to be transported from the collision scene for medical treatment; (3) damage to any vehicle which requires that vehicle to be towed from the scene; or (4) the driver’s receipt of a citation for a moving violation arising from the collision. In no case shall an alcohol test required under this subsection be conducted later than eight (8) hours after the collision, nor shall a drug test required under this subsection be conducted later than thirty-two (32) hours after the collision. No driver subject to testing under this section shall consume alcohol from the time of the incident until the required tests are conducted. If a driver is seriously injured and cannot provide a specimen during the time frame set forth above, the employee will authorize the EWW to obtain medical records which would indicate whether there were any prohibited substances or alcohol in the employee’s system at the time of the collision and/or post-collision testing.
2. Post–Accident Testing for all Employees. In the event of an industrial, construction or vehicle accident involving any Erie Water Works’ employee, the employer shall require testing. If there is reasonable evidence that employee negligence was the cause of the incident.

- E. Follow-up Testing. Any employee who has returned to duty after a positive alcohol or drug test shall be subject to unannounced follow-up drug and alcohol testing for a period of up to 24 months following the employee’s return to duty. Unannounced follow-up tests may be conducted in the first twelve (12) months after the employee returns to duty, and the Erie Water Works, on the recommendation of the substance abuse professional, and in accordance with current DOT Regulations, may require additional unannounced testing.

5. TESTING PROCEDURES

The following procedures shall apply to alcohol and drug tests administered to employees:

- A. The Erie Water Works may request urine as well as breath alcohol samples. The urine specimens shall be collected at the laboratory, hospital, doctor's office, or medical facility. Upon request of an employee, a Union representative shall be allowed to accompany the employee to observe the collection, bottling, and sealing of the specimen. All specimen containers and vials and bags used to transport them shall be sealed with evidence tape and labeled in the presence of the employee and the Union representative.
- B. The testing shall be done by a laboratory certified by the National Institute for Drug Abuse. Standard chain of custody procedures will be followed, except where specified. Unless otherwise stated herein, the EWW will pay for all testing.
- C. The following drugs shall be tested following all applicable DOT regulations pertaining to screening cutoff standards and confirmation cutoff: alcohol, marijuana (THC Metabolite), cocaine, amphetamines, opiates (including heroin) and phenylcyclidine (PCP), subject to future amendment of DOT regulations. Any employee with a random alcohol test below .04 but above .02 shall be placed in a non-safety sensitive position for the remainder of the work shift. In the event an employee tests above .02, but below .04 three times during the year, he or she will be evaluated by a substance abuse professional, and attend a rehabilitation program, if so advised.
- D. Any sample which has been willfully adulterated or is shown to be a substance other than urine shall be reported as such.
- E. There will be a split sample procedure for all employees directed for urine drug testing. One specimen shall be tested with the second specimen retained by the laboratory for future tests as requested by the employee or Union. In order to be considered as positive, the first specimen must show positive results on the Gas Chromatography/Mass Spectrometry confirmatory test or other medically accepted testing procedures. If the employee is advised by the MRO that the first (1st) urine sample tested positive, in a random, return to duty, follow up, reasonable suspicion or post-accident urine drug test, the employee may request from the MRO the second (2nd) urine specimen be forwarded by the first laboratory to another independent and unrelated NIDA-certified laboratory of the parties choice for GC/MS confirmatory testing of the presence of the drug. The cost of testing the second (2nd) specimen shall be borne by the Union if negative or the employee if positive. The employee shall not be permitted to take physical possession of the second specimen.
- F. If, after the procedure specified above in Paragraph E, the results of the tests administered by the employer on the sample show that the employee while on-duty was under the influence of or drank, smoked, ingested, inhaled or injected alcoholic beverages, non-prescribed narcotics, marijuana, cocaine, PCP, or non-prescribed amphetamines or barbiturates, appropriate discipline may be imposed

by the employer. The employee and the Union shall be presented with a copy of the laboratory report of the specimen before any discipline is imposed. The Union and the employee shall then have forty-eight (48) hours, as per the Labor Agreement (excluding week-ends and holidays) to present to the Erie Water Works a grievance protesting such disciplinary actions. The failure of the Union or employee to have the split sample test performed, or to present the results to the Erie Water Works shall not be used against the employee as a basis for discipline or in any arbitration proceeding. If the Union or employee chooses not to have the split sample tested, then they cannot challenge the accuracy of the results.

- G. Employees will be compensated for any lost time in submitting to drug or alcohol tests.
- H. After considering the results of the drug testing, the EWW may invoke appropriate disciplinary action up to and including discharge. Any discipline imposed for the first offense and any grievance filed in response thereto shall be held in abeyance pending voluntary completion by the employee of a substance abuse treatment program mutually agreed upon between the employer and the employee, the cost of which shall be covered by the employer's group health insurance, if applicable, as any other illness. The employee and EWW shall also enter into a Last Chance Agreement. See Section Appendix A for a copy of the Last Chance Agreement to be used. If the employee successfully completes such a program and is not disciplined for substance abuse for twenty-four (24) months following the initial charge, the discipline shall be revoked and shall not be used as the basis for any other disciplinary action in the future.

Rehabilitation itself is the responsibility of the employee. If confirmed positive, any follow-up testing above covered by insurance shall be borne by the employee. Any employee seeking medical attention for alcoholism or drug addiction will be entitled to benefits under the EWW's group medical insurance plan as per Plan documents. Any costs over and above insurance payments for any treatment or counseling will be borne by the employee. For employees enrolled in a formal treatment program, the EWW will grant rehabilitation leave on the following basis:

1. Family and Medical Leave Policy
2. If leave pursuant to the Family and Medical Leave Policy is exhausted, or the employee is not entitled to such leave, unpaid leave will continue during the period of rehabilitation and the period prior to recall.

The employee must provide the Water Works with written authorization consenting to the release of information from the rehabilitation program indicating whether or not the employee has successfully completed the initial program and with biweekly certification that he/she is continuously enrolled in a treatment program and actively participating in the program.

If an employee chooses not to enter a substance abuse treatment program, or drops out of the program, then the discipline is immediately imposed.

A second offense in a twenty-four (24) month period shall be considered cause for termination of an employee.

6. CONFIDENTIALITY

- A. Employees who seek voluntary assistance for alcohol and substance abuse will not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees without the employee’s consent, and to management personnel only on a “need-to-know” basis. Employees enrolled in substance abuse programs shall be subject to all employer rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.
- B. Results of urine and/or other testing performed hereunder will be considered medical records and held confidential to the extent permitted by law. Tests shall be performed for alcohol and the drugs required by current DOT regulations, and the laboratory shall report only on these substances. Tests for other drugs shall not be performed; and if such tests are performed, the results of such other tests shall not be reported to the Erie Water Works.

7. POLICY APPROVAL

Approved By:	Craig Palmer, CEO
Revision History:	Version 1.0, Revised October 25, 2024

Your signature on this form indicates that you have received a copy of, and understand, the Erie Water Works ALCOHOL AND DRUG ABUSE PROGRAM.

Signature

Date

Approved:

EWV Approved Signature

Employee Signature

Print Name

Print Name

Union Representative Signature

Date

Date

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