

# Drug/Alcohol Policy

## Purpose

To establish a policy that describes the Company's expectations regarding alcohol and Illegal Drugs in the workplace. This policy is based on the belief that a working environment free of drug and alcohol abuse is healthier, safer and more productive for all Employees.

## Scope

This policy applies to all Land O'Lakes Employees (including temporary/interns) ("Employees") and all Land O'Lakes facilities. This policy does not include Department of Transportation (DOT) regulated Employees to the extent that a testing situation falls within DOT's mandatory testing regulations; however it does cover DOT-regulated Employees in situations not covered by such regulations. To the extent any provision of this policy conflicts with a Collective Bargaining Agreement, the latter shall control.

## Definitions

- **Illegal Drugs** shall mean:
  - all forms of narcotics, depressants, stimulants, hallucinogens, or other drugs, including marijuana (with or without a medical marijuana card, patient registry number, and/or prescription), whose use, possession or transfer is restricted or prohibited by federal, state, **or** local law;
  - prescription drugs or over-the-counter medications not used in accordance with product and/or physician instructions or pursuant to a valid prescription;
  - prescription drugs or over-the-counter medications that impair the Employee's ability to perform their work safely
- **Employee** includes all Land O'Lakes employees, including temporary employees, interns, and DOT regulated drivers in situations not covered by DOT testing regulations. "Employee" does not include unemancipated minors under the age of 18, who fall outside the scope of this policy and are not subject to drug testing.
- **Positive Test** shall mean the following: for alcohol, a confirmed blood alcohol test or, where and as permitted by law, a breathalyzer test, with a result of .02<sup>1</sup> or higher, or its equivalent; for Illegal Drugs, a test confirmed as positive using a laboratory and method of analysis that meets or exceeds those of Minnesota Statute 181.953, or for employees tested in Iowa, a laboratory that meets all requirements of Iowa Code Section 730.5, including the use of breathalyzer equipment and personnel that meet the requirements of regulations adopted by the United States Department of Transportation for alcohol testing under the federal Omnibus Transportation Employee Testing Act of 1991.

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<sup>1</sup> In Iowa, the result must be .04 or higher, expressed in terms of grams of alcohol per two hundred ten liters of breath, or its equivalent, in accordance with Iowa law.

- **Significant Damage** means damage to physical property or product, the value of which, or cost to repair, is equal to or greater than \$1,000.
- **Supervisor** shall mean a Salaried Employee or Hourly Lead Person overseeing the work of other Employees.

## Policy

**In all cases, this policy shall be administered in accordance with applicable law, including state laws that may be more restrictive.**

It is Land O'Lakes' policy to maintain a safe, drug-free workforce and workplace. While on Company time, Company premises, or while operating Company owned- or operated- equipment or vehicles, Employees may never use, sell, purchase, transfer, manufacture or possess Illegal Drugs or drug paraphernalia. All Employees are expected to come to work free of the presence or effects of substances that may impair their ability to perform their work in a safe and productive manner.

This policy extends to cannabis and cannabis products (e.g. hash oils or pills). The federal government still classifies cannabis as an illegal drug, although it is lawful in some states. Employees should understand that this policy still applies and will be enforced even in states where use or possession of cannabis is lawful, or if the Employee has a medical marijuana card or prescription, or a patient registry number.

Employees may not possess, serve, consume, or be under the influence of alcohol while operating Company-owned-or-leased equipment or vehicles. For purposes of this policy, to "be under the influence" of alcohol means where such influence may impair safe and productive work performance. Except as noted below, Employees may not possess, serve, consume, or be under the influence of alcohol while on Company premises or when conducting Company business. Employees with safety-sensitive positions may not consume any amount of alcohol within four (4) hours before the time they are scheduled to report to work or during any work period, including meal and rest breaks.

Alcohol may only be served and consumed at functions on Company premises if authorized by the Chief Human Resources Officer and the General Counsel. Alcohol may be served and consumed at external events where Employees are representing Land O'Lakes. Alcohol should only be served by a person (or entity) that is licensed and trained to serve alcohol. Alcohol may never be served to any person under legal age or to any person who is obviously intoxicated. Consumption at any such event by Employees of legal age is completely voluntary, and should always be in moderation and never in a manner that would embarrass the Company or harm the Company's reputation.

## Testing

Drug and alcohol testing supports the Company's efforts to maintain a drug-free workplace. All drug and alcohol testing will be conducted in conformance with applicable law. Operation of this policy will be modified if and as necessary to conform to applicable law.

**Applicants:** Testing for the presence of Illegal Drugs is required of all individuals to whom a conditional offer of employment has been made. Applicants will be informed in writing of the testing requirement as part of the application process and must be tested within seventy-two (72) hours of receiving such notice.

**Employees:** Employees are subject to drug and/or alcohol testing under any of the following circumstances:

1. **Reasonable Suspicion:** If a Supervisor has reasonable suspicion that the Employee is currently in violation of this policy, the Employee may be asked to submit to a reasonable suspicion drug and/or alcohol test. "Reasonable suspicion" will be based upon specific observations and facts and reasonable inferences drawn from them that the individual may have violated this policy. The Supervisor's determination will be reviewed with another management representative unless circumstances reasonably prevent such review. An Employee referred for reasonable suspicion testing will be removed from his or her position and suspended pending the results of the test.
2. **Accident/Injury:** If an on-the-job accident results in either an injury requiring any individual to seek medical treatment beyond first aid from a health care professional or in Significant Damage to property or equipment, then all Employees involved in, causing or contributing to the accident shall be tested. An Employee referred for post-accident testing will be removed from his or her position and suspended for twenty-four (24) hours or until the start of his/her next regularly scheduled shift, whichever is later. Thereafter, the Employee may temporarily return to work pending the results of the test.
3. **Return-to-Work:** If the Employee returns to duty after completion of an accredited substance abuse treatment program as described below, he or she will be subject to a return to work drug and/or alcohol test, and may be subject to unannounced follow-up testing for at least twelve (12) months and no more than twenty-four (24) months following completion of the program.
4. **Random Testing for Safety Sensitive Roles:** If Employees work at a Company facility that manufactures hazardous materials (HAZMAT) and the facility has the authority from Human Resources, the Safety-Sensitive Employees at that specific facility may be subject to random testing.
5. **Other:** In addition to any other testing specifically described in this policy, the Company will conduct testing when required or permitted by government statute or regulation.

**Testing Outcomes:**

**Refusal to Test:** An applicant may refuse drug testing; however, the job offer will be rescinded in accordance with this Policy. Applicants who refuse to be tested may reapply for positions with the Company one year after refusing to submit to testing. Employees who refuse a drug test will be terminated.

**Right to Receive Test Results.** Applicants and Employees have the right to request and receive from the Company a copy of a test result report.

**Inconclusive or Diluted Tests:** In the event any test result is inconclusive, Applicants or Employees may be required to submit to an unannounced retest as soon as reasonably practicable after the inconclusive results are obtained. A second inconclusive result will result in withdrawal of a conditional offer to hire or termination except where limited by law. In the event a test result is diluted, the individual will be subject to an unannounced retest as soon as reasonably practicable after the diluted results are obtained. If the individual cannot produce a non-diluted sample in two attempts, and there is no documented medical reason for the diluted sample, it will be treated as a refusal to test.

**Tampering/Adulteration/Other:** In all cases, tampering with or adulterating a test specimen, taking any action to circumvent or avoid testing authorized by this policy, failing to cooperate with the investigation of a violation of this policy, and/or refusal or failure to comply with conditions imposed by corrective action will be grounds for withdrawing a conditional job offer/termination of current employment.

**Negative Tests:** Applicants who test negative may proceed to hire. An Employee who was suspended pending test results and who receives a negative test result will be returned to work as soon as possible. The Employee may be paid for the time spent while on suspension, unless suspension without pay is appropriate under another Company policy.

**Positive Tests:** Any applicant or Employee who tests positive for Illegal Drugs or alcohol may present information to a Medical Review Officer challenging or explaining the test results. If the test results could be explained by the use of a prescription drug or over-the-counter medication, the Employee will be asked to provide documentation considered sufficient by the Medical Review Officer, such as a doctor's note stating that the Employee has a valid prescription, is taking the drug in accordance with the prescription and is able to safely perform all of the assigned job functions while taking the drug. The Medical Review Officer has the authority to convert a Positive Test result into a negative one.

If an initial drug test is positive, and no information is presented to the Medical Review Officer that would warrant reversing the test result, those who test positive will be offered the opportunity to have a confirmatory retest, at their own expense. A confirmatory retest must be

requested within seven<sup>2</sup> days of being notified of the Positive Test result, and must be conducted either at the same laboratory that conducted the first test, or another laboratory that carries the same testing credentials. If the confirmatory retest does not confirm the Positive Test, it will be handled as though the initial test results were negative.

If a confirmatory retest is not requested, or if a confirmatory retest confirms the initial test, the consequences are as follows:

- 1. Applicants:** the conditional job offer will be withdrawn
- 2. Employees:** It is the Company's intent to offer Employees who have tested positive for the first time the opportunity to enter into and abide by a return-to-work agreement which will require, among other things, the Employee's agreement to undergo a substance abuse evaluation and to comply with any resulting recommendations for counseling and/or treatment. If the Employees successfully complies with and completes the recommended rehabilitation, no further action will be taken based on the positive test. If the Employee does not comply with the recommended plan, the Employee will be terminated from employment. If the Employee tests positive a second time, regardless of how much time has passed since the first positive test, the Employee will be terminated.

However, and except in states (such as Minnesota and Iowa) where limited by law, the Company reserves the right to terminate an Employee who tests positive the first time in lieu of offering a return-to-work agreement. All such terminations will be approved by Human Resources and the Law Department prior to implementation.

Nothing in this policy limits the right of the Company to discipline or discharge an employee on grounds *other than* a Positive Test result, including for use, sale, purchase, transfer, manufacture or possession of Illegal Drugs on Company time, Company premises, or while operating Company owned-or-operated equipment or vehicles, or for other violation of this Policy.

Employees may be suspended following notice of a Positive Test result while a decision is made as to continued employment.

There is no other appeal for the consequences of a Positive Test result other than those described in this Policy.

Other important information:

**Confidentiality:** Test results and other information acquired in the testing process are considered confidential information. The Employee or applicant tested will be provided with copies of Positive Test reports and the Company and any of its agents will use best efforts not to share the results with others without the individual's consent except as follows: in connection

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<sup>2</sup> In Iowa, employees have fifteen calendar days to request a retest. Details will be provided to the employee when notice of the positive drug test is provided.

with grievance/complaint processing or arbitration, administrative or judicial proceedings to which the report may be relevant; to a substance abuse treatment facility and/or professional for the purpose of evaluation or treatment of the individual; on a need-to-know basis internally; or as otherwise required by law.

### **Required Employee Notification**

An Employee whose job duties include the use of machinery and/or operation of vehicles or other equipment and who takes a prescription or over-the-counter medication that contains a cautionary label regarding the use of machinery or operation of vehicles must notify his or her Supervisor or other appropriate Company personnel before commencing work. If an Employee fails to notify and the Company confirms use of such medication (including confirmation by testing as authorized by this policy) such failure to provide notification is subject to disciplinary action, up to and including termination.

## **Resources for Addressing Workplace Drug/Alcohol Issues**

**Employee Assistance Program (EAP):** EAP provides eligible Employees with access to resources for substance abuse counseling and treatment. An Employee who thinks she/he may have a drug or alcohol-related problem is encouraged to use this resource. Contact with EAP is confidential, except that the Company may require confirmation that the Employee is meeting EAP participation requirements when formally referred to EAP as part of a corrective action. Although voluntary use of EAP resources is strongly encouraged, it will not excuse any violation of this policy or other failure to satisfy job expectations.

### **Responsibilities**

**Employees:** are responsible for complying with this policy and for cooperating with any testing or investigation conducted in support of this policy. An Employee who becomes aware of a violation of this policy should report the matter to his/her Supervisor or Human Resources.

**Human Resources:** interprets, administers and coordinates communication relating to the policy, and develops procedures for its implementation.

**Supervisors and Managers:** are responsible for the day-to-day implementation of this policy.

**Law Department:** monitors legal requirements affecting drug/alcohol use and testing and provides legal advice and counsel.