2.24.23

DRUG AND ALCOHOL-FREE WORKPLACE AND SUBSTANCE ABUSE POLICY

OUR COMMITMENT TO A DRUG AND ALCOHOL-FREE WORK ENVIRONMENT.

PURPOSE

This Policy keeps Emery Sapp & Sons, Inc. Company compliant with the Drug-Free Workplace Act of 1988. But more importantly, it supports our long-standing commitment to provide a safe, quality-oriented, and productive work environment. Alcohol and drug use impairs coordination and judgment, inhibiting the ability to think clearly. This impairment may lead to property damage, personal injury, or death. Alcohol and drug use may also cause health issues and death. For these reasons, the Company is committed to the elimination of drug and alcohol use and abuse in the workplace.

The purpose of this Policy is to communicate to applicants and employee-owners our commitment to a drug and alcohol-free work environment, identify what conduct is prohibited, identify the methods that will be used to ensure compliance and the consequences of Policy violations.

POLICY STATEMENTS

All employee-owners are prohibited from manufacturing, cultivating, distributing, dispensing, possessing, or using illegal drugs in the workplace. Included with this prohibition are lawful controlled substances that have been illegally or improperly obtained. Employee-owners are also prohibited from having any such illegal or unauthorized controlled substances in their system while at work.

All employee-owners are prohibited from coming onto Company Premises, reporting to work, or working while over the Legal Limit for alcohol in their system. Furthermore, lawful off-duty alcohol use or the exceptions noted in Section 1.3.1, while generally not prohibited by this policy, must not interfere with an employee-owner's job performance.

The proper use of legally prescribed medication may not be prohibited; however, the misuse of prescribed medication is prohibited. Employee-owners' drug use may affect their job performance (e.g., by causing dizziness or drowsiness). It is the employee-owner's responsibility to determine from his or her physician whether a prescribed drug may impair safe job performance and to notify a supervisor of any job restrictions that should be observed as a result.

APPLICABILITY

This Policy is applicable to all operations within the scope of and personnel subject to the requirements of the Company Employee-Owner's Manual. **This Policy applies to all employee-owners.**

In addition to this policy, employee-owners who are employed as Commercial Motor Vehicle drivers are subject to the Controlled Substances and Alcohol testing requirements of the United States Department of Transportation (DOT), Federal Motor Carrier Safety Administration.

RESPONSIBILITIES

The **Executive Management Team (EMT)** is responsible for development and companywide implementation of the Company Substance Abuse Policy, including compliance with local, state, and federal regulations. The EMT may designate a Policy Administrator to oversee implementation of this Policy. Managers, supervisors, HR professionals and safety professionals must enforce and respond quickly to address Policy violations and hold those accountable who do not comply.

Department Managers (Vice Presidents or Directors) with direct

authority for the management of the Business Unit and/or Operational Unit shall ensure this Policy is implemented. The Department Manager may designate a local Policy Administrator to oversee the implementation of this Policy within their Business or Operational Unit.

Human Resources (HR) Professionals are responsible for advising and assisting Department and Operational Managers in the implementation of this Policy, including procedures and disciplinary action if warranted.

Medical Review Officer (MRO) is a third party contracted with the Company that may be utilized to review positive drug test results, verify that prescriptions are legal and to provide other technical guidance to Company HR Professionals.

Safety Professionals are responsible to assist the Department and Operational Managers in the implementation of this Policy, including incident and reasonable suspicion investigations.

Operational Managers and their subordinates are responsible for ensuring that this Policy is implemented, and clearly communicated to all employee-owners. Supervisors are responsible for ensuring that employee-owners understand this Policy and that apparent or suspected violations are properly reported.

Subcontractors working for the Company are expected to have Drug and Alcohol Free Workplace and Substance Abuse Policies that meet or exceed the Company policy.

ULITMATELY, EACH EMPLOYEE-OWNER IS RESPONSIBLE FOR THE SUCCESS OF OUR COMPANY. AS SUCH, EVERY EMPLOYEE-OWNER IS RESPONSIBLE FOR ACTING IN A RESPECTFUL, SAFE AND RESPONSIBLE MANNER AT ALL TIMES.

SUBSTANCE ABUSE MANAGEMENT PROCEDURES

1. PROHIBITED CONDUCT

1.1. Engaging in the unlawful or unauthorized manufacture,

distribution, dispensation, solicitation, sale, purchase, transfer or possession of Controlled Substances, drug paraphernalia or Alcohol while on Company-paid time, on Company Premises, in Company vehicles, or while otherwise engaged in activities for or on behalf of the Company

1.2. Reporting for work, remaining on duty, or driving Company vehicles or personal vehicles on Company business while impaired.

1.3. Except as noted 1.3.1, consuming Alcohol during an employee-owner's normal course of work, workday, or normal business hours is prohibited. This includes, but is not limited to, while an employee-owner is on or off the premises of the Company.

1.3.1. This prohibition does not include the reasonable consumption of Alcohol by employee-owners of legal drinking age, under the following guidelines:

1.3.1.1. After normal business hours while traveling on Company business.

1.3.1.2. On-site functions authorized by the Department Manager.

1.3.1.3. While at offsite functions or activities sponsored by the Company or while attending client or industry association functions with the prior approval of their Department Manager.

1.3.1.4. Driving while impaired at or above the Legal Limit of Alcohol is specifically prohibited in a Company vehicle or leased vehicle for which the Company is financially

1.4. Engaging in any illegal or unauthorized use of Controlled Substances at any time while on or off-duty is prohibited. This includes, but is not limited to, while an employee-owner is on or off the premises of the Company, as well as during the employee-owner's meal and other break periods.

1.4.1. This prohibition does not apply to prescriptions or over-the-counter medications taken by employee-owners which:

1.4.1.1. Have been lawfully prescribed to, or obtained by, the employee-owner that do not impair the employee-owner's ability to perform their duties in a safe and productive manner;

1.4.1.2. Are being used by the employee-owner in accordance with the instructions provided with the prescription or over the counter medication;

1.4.2. If employee-owner takes an over-the-counter medication or other medication that can legally be prescribed to treat a condition/disability, employee-owner must inform Human Resources if they believe the medication may affect job performance, safety, or the safety of others or if employee-owner believes they need a reasonable accommodation before reporting to work while under the influence of that medication.

1.5. Failing to stay in contact with the Company or its MRO while awaiting the results of a Controlled Substances test is

1.6. Testing positive on any Controlled Substances or Alcohol test, in which a prescription is not present or alcohol consumption was not authorized is prohibited.

1.7. Refusal to Test (aka refusal to submit to a test) required under this Policy is prohibited.

1.8. Refusing to cooperate in an inspection of Company property is prohibited.

1.9. Failing to report a conviction for a Controlled Substances-related crime that occurred at a Company Work Location or in a company vehicle to the Responsible Manager within five (5) days of the conviction is prohibited.

2. TRAINING

2.1. New Employee-Owners

2.1.1. As part of the on-boarding process, all new or rehired employee-owners will receive the Drug and Alcohol Free Workplace and Substance Abuse Policy and Employee Assistance Program (EAP) training.

2.2. All Employee-Owners

2.2.1. The Company will provide substance abuse awareness and EAP training to all employee-owners. Additional meetings such as toolbox talks may be used for refresher training.

2.3. Supervisors

2.3.1. The Company will provide reasonable suspicion and post-incident procedures training, including proper documentation, to all supervisors.

3. METHODS USED TO ENSURE COMPLIANCE

3.1. **Testing** - To enforce this Policy against the use of Controlled Substances and the use of Alcohol in the workplace, the Company will use a system of testing for Controlled Substances and/or Alcohol and inspections. Controlled Substance and/or Alcohol testing and inspections shall only be conducted in accordance with applicable laws rules and regulations. Where any provision of this Policy conflicts with the provisions of an Agency or General Contractor client's project specific Substance Abuse Policy, the stricter of the two policies shall govern:

3.1.1. Pre-Employment Controlled Substances Testing of Applicants. All applicants to whom the Company has given a conditional offer of employment are required to submit to a pre-employment Controlled Substances test and must receive a negative result as a condition of employment. An applicant will not be allowed to work unless their test result is negative and they have completed all onboarding requirements.

3.1.2. Reasonable Suspicion Controlled Substances and Alcohol Testing of employee-owners. An employee-owner

must submit to a Controlled Substances test, and/or an Alcohol test, whenever there is reasonable suspicion that the employee-owner has or may have used Controlled Substances or Alcohol in violation of this Policy.

3.1.3. Post-Incident Controlled Substances and Alcohol Testing of employee-owners. An employee-owner must submit to a Controlled Substance test, and/or an Alcohol test, whenever it appears employee-owner(s) caused or contributed to a Significant Safety Incident.

3.1.4. Other Testing for Controlled Substances and Alcohol Testing.

3.1.4.1. Employee-owners shall be required to submit to a Controlled Substances test where, as a contractual condition of performing work for a client, the Company must certify that employee-owners are participating in a Controlled Substances testing program or must have passed a pre-assignment or pre-access test within a prescribed period.

3.1.4.2. Employee-owners who have entered into a Voluntary Rehabilitation Agreement may be required to submit to Controlled Substances and Alcohol testing under the agreed to terms and conditions.

3.1.4.3. Employee-owners who are subject to DOT requirements or who are in safety sensitive positions may be subject to drug and/or alcohol testing on a random basis at unannounced times spread throughout the year in accordance with this policy. Any employee-owner may be required to submit to periodic testing after the employee-owner has been disciplined for a violation of this policy. Refusal shall be treated the same as if the employee-owner has tested positive.

3.2. **Inspections**

3.2.1. The Company may, when there is reasonable suspicion

to believe that an individual may have or has violated the Controlled Substances or Alcohol prohibitions contained in this Policy, conduct inspections of employee-owners work areas or vehicles.

4. CONSEQUENCES FOR POLICY VIOLATIONS

4.1. **Discipline** - Company HR may choose to engage a MRO to investigate and evaluate any positive test results conducted under Section 3. HR will provide a recommendation for disciplinary action, if any, to the Department Manager. Disciplinary action can range from none up to and including termination based on the situation. Applicants who were not hired or employee-owners who were terminated for failing to comply with the requirements of this Policy (i.e., a verified positive test without a prescription or legal authorization, refusal to test, et. al.) may not reapply for employment until thirty (30) days after their termination. A new pre-employment drug screen must be completed, returning a verified negative result, prior to allowing the employee-owner to return to duty.

WAIT, WHAT WAS THAT AGAIN?
DID SOME OF THOSE WORDS MAKE YOU SCRATCH YOUR HEAD? YEAH, US TOO. THIS IS WHY WE'VE COMPILED THIS HANDY-DANDY LIST FOR YOU.

APPENDIX A
SUBSTANCE ABUSE POLICY DEFINITIONS

Agency Local, state, or federal government clients.

Alcohol The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Use	The consumption of any beverage, mixture, or preparation, including medication, containing Alcohol.
Applicant	A person who applies for employment with the Company and is not currently an employee-owner.
Business Unit	Any uniquely identified organizational unit of the Company, such as Branch, Group, Division, Region, Area, Project, or Department.
Company Work Location/ Company Premises	All property, facilities, land, offices, living quarters, buildings, structures, fixtures, installations, trailers, equipment, boats, vessels, barges, aircraft, automobiles, trucks, all other vehicles, and parking areas, whether owned, leased, used or under the control of the Company. This may also include other work locations, including the job site of a customer, vendor or partner facilities or to and from those locations while in the course and scope of employment with the Company.
Controlled Substances	Those Controlled Substances or other substances defined by the Controlled Substances Act and included in schedules I, II, III, IV or V of 21 CFR 1803.11 through 1308.15, including but not limited to amphetamines, barbiturates, benzodiazepines, buprenorphine, cannabinoids (marijuana), cocaine, methadone, methaqualone, opioids, phencyclidine and propoxyphene.
Department Manager	The highest-ranking manager of each Department or Business Unit (Company Vice President or Department Director).
DOT Employee-Owner	Employee-owners whose jobs require a Commercial Driver's License (CDL) and are subject to USDOT / FMCSA drug and alcohol testing policies.
Employee-Owner	Every individual employed by the Company, or any of its wholly owned subsidiaries.

Incident	An unplanned event that occurs with the potential for, or resulting in, harm to persons, damage to a vehicle, equipment, or property, or that otherwise causes a loss to a third party.
Legal Limit for Alcohol	The limit defined in state or federal laws and regulations that determine when a person is considered legally impaired. The general public limit is .08 or more and commercial driver limit is .04 or greater.
Medical Marijuana	Marijuana or a marijuana-infused product legally prescribed to treat a qualifying medical condition.
Medical Review Officer	An MRO is a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result as it relates to the employee-owner's medical history and any other biomedical information.
Near Miss	An event, though it did not cause a significant loss, that under slightly different circumstances could have resulted in an Incident.
Operational Manager	The person with the authority/responsibility for the execution of the work and daily administration of the Company's Policies and Procedures (e.g., Construction Managers, Plant Managers, Superintendents, Engineers).
Random Testing	A selection process for DOT Employee-Owners and Employee-Owners in safety sensitive positions where affected employee-owners are selected for unannounced controlled substances testing using a scientifically-valid random selection process that ensures that each employee-owner has an equal chance of being selected for testing.
Reasonable Suspicion	In this Policy, the term "reasonable suspicion" means a belief that an individual is using or has used controlled substances or alcohol in violation of the Company's Policy drawn from specific objective and articulable facts and reasonable inferences

drawn from those facts in light of the Company's experience. The belief may be based upon, among

- Observable phenomena such as the physical symptoms or manifestations of being under the influence of a controlled substance or alcohol while at work or on duty or the direct observation of controlled substance or alcohol use while at work or on duty.
- A report of controlled substance or improper alcohol use while at work or on duty, provided by reliable and credible sources and which has been independently corroborated.
- Evidence that an individual has tampered with a controlled substance or alcohol test during the individual's employment with the Company.
- Evidence that an individual is involved in the use, possession, sale, solicitation, or transfer of controlled substances while on duty or while on the Company's premises or operating a Company vehicle, machinery or equipment.

Refusal to Test

A refusal to test would include any of the following situations:

- Failing to appear for any test when directed to do so.
- Failing to remain at the testing site until the testing process is completed.
- Failure to provide a breath sample, saliva sample or urine sample as directed.
- Failure to permit, if the situation requires, the observation of providing a urine specimen.
- Failure to provide a urine, breath or saliva specimen within required time frames may be considered a refusal. If a participant cannot provide a sufficient quantity of urine or breath, he/she will be directed to be evaluated by a physician (MRO must approve the choice of physician). If the physician cannot find a legitimate medical explanation for the inability to provide a specimen (either breath or urine), it will be considered a refusal to test.

- Failure or decline to take an additional drug test the employer or collector has directed an employee-owner to take.

- Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as part of a “shy bladder” or “insufficient breath” situation.

- Failure to cooperate with any part of the testing process and/or conduct that would obstruct the proper administration of a test. (e.g., refusing to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)

- For an observed collection, failure to follow the observer’s instruction to raise and lower their clothing to permit the observer to determine if the employee-owner has a prosthetic or other device that could be used to interfere with the collection process.

- Possess or wear a prosthetic, device, or material that could be used to interfere with the collection process.

- Admission by the participant that he/she adulterated or substituted the specimen or declines to take a required test.

- A report from the MRO that the participant has a verified adulterated or substituted test result.

- Note that a refusal to submit to a drug and/or an alcohol test will have the same consequences as a Positive Test Result.

Rehabilitation

Employee-owners who voluntarily seek help for substance abuse (self-referral) by contacting the Company will be given an opportunity to pursue counseling and rehabilitation. We will give these employee-owners information about counseling and rehabilitation services. An employee-owner who is receiving counseling and/or treatment for substance abuse may use available vacation, sick leave, or, if eligible, family and medical leave. Health insurance often covers the costs of such services, but costs not covered must be paid by the employee-owner. The employee-owner cannot return to work until released by a treatment provider to do so, and he or she must receive a negative result on a return-to-work drug and/or alcohol test (as appropriate for that individual). In addition, the employee-owner may be asked to submit to random follow-up testing for a period following the return to work.

Reportable Injury or Illness (OSHA)

An incident that results in the death, amputation, permanent disfigurement, loss of an eye or inpatient hospitalization of an employee-owner. Note: Some state agencies (e.g., California, Kentucky, and Utah) have more extensive definitions of injuries that are reportable.

Responsible Manager

The highest-ranking person at the project level or location that is responsible for field or plant operations (i.e., Project Manager, Superintendent, Project Engineer, or Business Unit Manager).

Safety Sensitive Assignments

Assignments that by their nature could pose a significant risk of causing or contributing to a Work-Related Incident, especially those assignments where an employee-owner has the responsibility for his/her own safety or other people's safety. These assignments include managing or supervising employee-owners, the operation of motor vehicles, construction, mining, milling, or manufacturing equipment, or being exposed to the hazards associated with construction, mining, milling or manufacturing operations. The job titles frequently associated with these assignments include, but are not limited to, Carpenters, Cement Finishers, Equipment Operators, Truck Drivers, Foremen/Supervisors, Helpers, Iron Workers, Laborers, Mechanics, Miners, Operational Managers, Plant Operators, Superintendents, and Surveyors. The Company reserves the right to determine which assignments are safety sensitive.

Significant Safety Incidents

Level I or Level II Incidents that because of their potential severity and financial loss must be reported to the Company's senior managers/executives.

EXHIBIT 2.N.001

Incident Classification Qualifiers

The qualifiers shown below help the Safety Manager determine if the incident is Level I, II, or III, and the incident investigation procedure to be followed.

Level I Incident Qualifiers	Level II Incident Qualifiers	Level III Incident Qualifiers
• All injuries resulting in: emergency response, broken bone(s) or other significant injury, an unprotected fall. • All incidents resulting in injuries to more than one employee. • Property, Equipment or Vehicle Damage greater than $25,000 or any third-party injury • Subcontractor incidents resulting in significant injury and / or risk to the project	• All incidents that are or have the potential to become Recordable Employee Injuries, including First Aid cases treated off site. • Property, Equipment or Vehicle Damage $5,000-$25,000 • At fault utility hits • Reportable environmental releases • Subcontractor near misses or OSHA reportable incidents.	• Near Misses • First Aid Injury Cases • Property, Equipment or Vehicle Damage <$5,000 • 3rd Party Property Damage Cases under $5,000 • Theft • Not At Fault Utility Hits

Supervisor A person who supervises workers or the work done by others. An employee-owner with management authority over a workplace and other employee-owners. This includes managers, superintendents, foremen and lead men (if they have been authorized to enforce Company Policies and Procedures).

Work Related Incident Any Incident that occurs at a Company Work Location or on Company Premises, or off-site while engaged in activities (including operating a vehicle) for or on behalf of the Company with the potential for, or resulting in, harm to persons, damage to a vehicle, equipment, or property, or that otherwise cause a loss to a third party resulting in one or more of the

- A Significant Safety Incident; or
- Near Miss.

EXHIBIT 2.N.002

Incident Qualifier Matrix

Use the following exhibit to qualify your incident as Level I, II, or III:

INCIDENT QUALIFIER MATRIX

01 ASSESS CRITERIA | 02 QUALIFY YOUR INCIDENT AS LEVEL I, II, OR III | 03 FOLLOW THE CORRESPONDING RESPONSE PROCEDURE

LEVEL	INJURY SEVERITY	DAMAGE	AFFECTED PARTIES	RESPONSE PROCEDURE
Level I	☐ Emergency Response ☐ Broken Bone(s) ☐ Unprotected Fall ☐ Other Significant Injury ☐ Incidents resulting in injuries to more than one employee	☐ Property, Equipment, or Vehicle Damage more than $25,000	☐ Any Third-Party injury ☐ Subcontractor incidents resulting in significant injury and/or risk to the project	Scan QR Code to view **Level I Response Procedure**
Level II	☐ All incidents that are or have the potential to become Recordable injuries ☐ First Aid cases treated off site	☐ Property, Equipment, or Vehicle Damage $5,000 - $25,000 ☐ 3rd Party that has potential to have injury or property damage of under $5,000	☐ At-fault Utility Strike ☐ Reportable Environmental Releases ☐ Subcontractor near misses or OSHA Reportable incidents	Scan QR Code to view **Level II Response Procedure**
Level III	☐ First Aid Injury Cases ☐ Near Misses	☐ Property, Equipment, or Vehicle Damage less than $5,000 ☐ Theft	☐ Not-at-fault Utility Strikes	Scan QR Code to view **Level III Response Procedure**

Care for injuries and stabilizing hazardous conditions takes priority over the investigation. If in doubt call 9-1-1.

Have questions about this matrix? We're here to help. Please email safety@emerysapp.com

Incident Qualifier Matrix last updated 03.16.2023

VIEW INCIDENT QUALIFIER MATRIX