

DRUG FREE AND ALCOHOL FREE WORKPLACE POLICY

I : Purpose

The purpose of this policy is to protect our employee-owners, our clients, our Company, our communities, our reputation and our ability to do business.

Ultimately, 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.

Alcohol or drug use by employee-owners of Emery Sapp & Sons, Inc. (ESS), whether on or off the job, presents a variety of unacceptable risks:

- The risk of personal injury to coworkers or members of the public from incidents caused by an individual who is under the influence of alcohol or drugs.

As a responsible employer, Emery Sapp & Sons must take steps to maintain a drug-free and alcohol-free workplace in the interest of safety and efficiency for all concerned. For these reasons, we've established and committed ourselves to enforcing the policies and procedures below.

II : General Policy – All Employees

A. COVERAGE:

Parts I, II and III of this policy shall apply to all employee-owners and to all applicants for employment. All employee-owners must as a condition of employment abide by the terms of this policy. All employee-owners who are subject to Department of Transportation requirements must also comply with section D4 of this policy.

B. CORRECTIVE ACTION:

Violation of any part of this policy may result in any corrective action appropriate to the circumstances. Depending on the circumstances, appropriate action may include, without limitation, termination from employment, suspension without pay, warning, probation, or other action deemed to be commensurate with the violation.

Employee-owners (other than applicants who have been conditionally selected for hire subject to drug testing) who test positive for a drug and/or alcohol will be suspended without pay, and ESS will refer the employee-owner to an alcohol and/or drug rehabilitation program by a certified and/or licensed drug and/or alcohol treatment program, to be approved by ESS. The employee-owner and/or his or her insurance company shall pay all expenses related to such rehabilitation program. For an employee-owner who has been suspended to be eligible for reinstatement following a confirmed positive test for a drug and/or alcohol, the following conditions must be satisfied: If an employee participates in a treatment program, fails to complete a treatment program or tests positive in a rehabilitation follow-up test, he/she will be discharged and ineligible for rehire for six (6) months.

- 01** Proof of enrollment in, required participation in and/or successful completion of alcohol and/or drug rehabilitation program as designated by an ESS-approved Substance Abuse Professional (SAP).

02 Negative return-to-work drug and alcohol tests.

03 Execution of Monitoring Agreement.

If an employee-owner fails to participate in a treatment program, fails to complete a treatment program or tests positive in a rehabilitation follow-up test, he/she will be discharged and ineligible for rehire for six (6) months.

An employee-owner who is reinstated agrees to be retested for a measured concentration of drugs and alcohol in random monthly intervals for a period of one (1) year. Employee-owners who are reinstated and test positive for a measured concentration of a drug and/or alcohol within two (2) years of the reinstatement date will be immediately discharged and are ineligible for rehire.

Applicants for employment who have been conditionally selected for hire are subject to drug testing prior to confirmation of their employment. An applicant who tests positive for a measured concentration of a drug and/or alcohol shall not be hired for a minimum period of six (6) months.

RULES AND REGULATIONS:

01 Use or Possession at Work: The use or possession of alcoholic beverages and/or illegal drugs while on ESS property or job sites, in company vehicles, or on the job, is prohibited.

02 Under the Influence: Appearing for work or performing any job duties while under the influence of alcohol or illegal drugs is prohibited. Employee-owners who are believed to be under the influence on the job may be suspended or reassigned for safety reasons while the situation is evaluated.

03 Off-Duty Use: The use of alcohol, which results in an under the influence state on the job, is prohibited. The use of illegal drugs, whether on or off duty and whether on or off premises, is prohibited under all circumstances.

04 Legal Drugs: The use of legal drugs (over the counter or prescription medications) in accordance with doctor's orders and manufacturer's recommendations is not prohibited. However, if use of legal drugs may impair the employee-owner's ability to safely and effectively perform his/her job, the employee-owner must notify his/her supervisors in advance. Employee-owners may be required to provide documentation of the nature and safety of any legal drugs currently being used. The company reserves the right, in its sole discretion, to require any employee-owner to refrain from working while possibly under the influence of any drug or medication.

05 Arrest and/or Convictions: Any employee-owner who is arrested and/or convicted of any alcohol or substance related conviction (BAC, DWI, DUD, etc.) Administrative Suspension or Chemical Test Refusal or Abuse and Lose violations must notify his or her supervisor within five (5) days of the arrest or conviction. The supervisor will then notify the safety or HR department immediately.

06 Consent: All employee-owners are required to consent, upon request, to drug and/or alcohol testing in accordance with this policy and to the release of test results to the Company. Refusal to consent to such testing, to consent to the release of test results, or to otherwise fully cooperate with the testing process, may result in corrective action, up to and including termination.

07 Management Discretion: Nothing contained in this policy shall require the Company to obtain drug or alcohol testing before imposing corrective action in any circumstance. The company reserves the right to require that any employee-owner demonstrate current fitness for duty satisfactory to the company as a condition of returning to work or remaining at work. This policy, as with all company policies, is subject to management discretion in its interpretation and enforcement.

D. DRUG AND ALCOHOL TESTING:

All initial testing by accepted methods for the presence of alcohol and/or drugs will be conducted at company expense, as required by State and/or Federal Law, and in the following circumstances:

- 01 Pre-Employment Drug Testing:** All applicants for employment who have been conditionally selected for hire will submit to drug testing, as part of the normal pre-employment process, prior to confirmation of their appointment. Refusal to submit to the test as directed, or testing positive, will disqualify the applicant from employment. If an applicant who is disqualified for this reason later re-applies for employment, the applicant will not be eligible for consideration for employment for six (6) months and successfully passing another pre-employment drug test.
- 02 Post-Incident Drug Testing:** Employee-owners involved in a job-related incident will be required to submit to testing.
- a** The term “job-related incident” means any event, whether accidentally or intentionally, occurring on the job, on ESS premises or an ESS work site, or while using or operating ESS property (including, but not limited to, an ESS vehicle or equipment), which causes, or contributes to cause, any one of the following: personal injury to any person requiring medical attention by a healthcare provider (e.g., a hospital, clinic, physician, nurse, EMT, etc.); property damage to an ESS motor vehicle or equipment; or damage to the property of another person or entity, where such other person or entity requires or requests ESS to repair or pay for the repair of the property.
- 03 Reasonable Suspicion:** An employee-owner will be required to submit to testing if there is reasonable suspicion to believe that the employee-owner is under the influence of drugs or alcohol, in accordance with testing procedures outlined in Part III(A). Continued employment with ESS shall constitute the employee-owner’s consent to testing under these circumstances. The determination of whether or not there is reasonable suspicion to believe that the employee-owner was under the influence of drugs or alcohol may be based on any facts or circumstances, which reasonably support the conclusion, including the following:
- a** Observable phenomena, such as direct observation of drug or alcohol use or possession, detection of an odor of alcohol on or around the employee-owner, and/or observation of physical symptoms of being under the influence such as slurred speech, staggered walk, erratic behavior, irrational statements, and so forth.
 - b** Extraordinary circumstances surrounding the incident, which are difficult to explain other than as the result of the impairment of the employee-owner’s normal faculties.
 - c** Information provided by a coworker or other third party which is independently corroborated or which appears to be provided in good faith and is consistent with the other facts of the situation.
 - d** A supervisor shall transport the employee-owner to the testing site or make other arrangements for testing as soon as possible after the determination to require a test. If the employee-owner is seriously injured and cannot provide the adequate sample necessary for testing, the employee-owner shall provide all necessary authorizations for his/her healthcare provider to release to company management all medical or hospital records related to the incident.
 - e** Refusal to comply with a request for testing or records shall be treated the same as if the employee-owner tested positive.
- 04 Return to Duty:** Employee-owners who have violated this policy must submit to a return-to-work drug and/or alcohol test. An employee-owner may not return to his/her duties until, in the case of an alcohol test, he or she has an alcohol concentration of 0.00 g/210 liters of breath, and, in the case of a drug test, the test produces a verified negative result.

05 Follow-Up Monitoring: Any employee-owner may be required to agree to submit to periodic testing after the employee has been disciplined for a violation of this policy. Refusal shall be treated the same as if the employee-owner tested positive.

E. REHABILITATION

Employee-owners who have a drug or alcohol related problem will be encouraged and assisted to obtain appropriate treatment whenever reasonably possible. All employee-owners should obtain help before their personal problem interferes with their work or leads to a violation of Company rules. An employee-owner may be required, as a condition of continued employment, to undergo assessment and/or treatment for chemical dependency. If so required, the employee-owner shall authorize the treatment providers to inform the company of the employee-owner's diagnosis and treatment status. For such employee-owners undergoing assessment and/or treatment, eligibility to continue employment, and any special conditions on the employee-owner's work, shall be determined on a case-by-case basis, considering all relevant circumstances, including without limitation to, the following:

- 01** The nature and success of the employee-owner's treatment and after-care plan, including the employee-owner's ability to function independently and to handle the responsibilities of his/her position.
- 02** The recommendations of the employee-owner's treatment providers and supervisors.
- 03** Employee-owner's position and the safety of all.

Treatment costs shall be the responsibility of the employee-owner or his/her health insurance.

F. AWARENESS/EDUCATIONAL PROGRAMS

ESS will periodically provide the Company's drug-free and alcohol-free workplace policy, the penalties which may be imposed for violation of this policy, the availability of the treatment and rehabilitation programs, and other helpful resources. Supervisors will receive training on identifying the signs and symptoms of drug and alcohol abuse, and on identifying signs of being under the influence on the job.

G. MISCELLANEOUS PROVISIONS

A job applicant or employee-owner has the right to request in writing a copy of his/her drug or alcohol test result report. ESS maintains the right, in its discretion, to report the unlawful possession or distribution of marijuana, cocaine, opiates, phencyclidines, amphetamines, legal and/or illegally obtained prescription drugs, including prescription drugs prescribed to others, the distribution of prescribed drugs to themselves or others, controlled substances, drug paraphernalia to law enforcement officials and to turn over to the custody of law enforcement officials any drug paraphernalia or substances banned under this policy.

This policy shall not be construed to interfere with or diminish any employee-owner protections relating to drug and alcohol testing provided in federal, state or local statutes, regulations and/or ordinances.

This policy shall not be construed to allow job applicants or employee-owners to purchase, possess or use marijuana for medically prescribed purposes. Job applicants or employee-owners who test positive for a measured concentration of marijuana, regardless of reason for use, will result in disciplinary action, up to, and including revocation of a job offer or discharge. For further information on ESS's Drug and Alcohol Policy or for assistance contact our Safety Manager or Human Resources.

III : Testing Procedures

A. REASONABLE SUSPICION TESTING APPROVAL

Reasonable suspicion drug or alcohol testing of an employee-owner (not an applicant) shall require the approval of at least two trained supervisors, one of which is a member of upper management.

B. TESTING FACILITIES

Testing facilities shall meet all licensure or certification standards imposed by applicable state and federal law (including DOT regulations). Testing will be conducted under the direction of qualified medical personnel selected by the company. The medical personnel will collect a sample, arrange for testing by a qualified laboratory, and report test results to the company in accordance with accepted scientific standards and applicable laws and regulations. The Company will pay initial and verification testing costs.

C. TRANSPORTATION

Employee-owners who are being tested post-incident or based on reasonable suspicion to believe they are under the influence shall be transported to the testing site and back to work, hospital, hotel, police station or home by a supervisor or designated employee-owner.

D. RELEASE OF RESULTS

All applicants and employee-owners being tested shall execute written authorizations for the tests and for release of test results to ESS. Refusal to do so shall be considered refusal to submit to the test.

E. OPPORTUNITY TO EXPLAIN

If the initial screen and confirmatory test are positive, the applicant or employee-owner will be afforded a reasonable opportunity to talk with the medical personnel/medical review officer to explain or rebut the results.

F. RECORDS

Upon his/her written request, an employee-owner will be allowed to review his/her records kept by ESS pursuant to this policy. Confidential files containing test results shall be maintained for five (5) years in a secure location with controlled access.

G. TAMPERING OR FALSIFICATION

Any employee-owner who knowingly tampers with, falsifies, or knowingly assists or aids another in tampering with, or falsifying, any test sample or test results shall be subject to immediate corrective action. Alternate sampling methods may be used, if a sample is suspected to be tampered with or adulterated, immediately.

H. POSITIVE TEST

For purposes of this policy, a blood/alcohol level of .04g/210 liters of breath or greater will constitute a positive test result. The presence of any amount of an illegal drug as determined in accordance with the cutoff levels established by the Company and/or the testing facility will be deemed a positive test.

I. NOTIFICATION OF RESULTS:

ESS will notify the employee-owner and supervisor of a positive test. If positive the employee-owner can request specific drug(s) found.