

# WEHR CONSTRUCTORS, INC.

## HUMAN RESOURCES POLICY & PROCEDURES

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<b>Subject:</b>	<b>Drug &amp; Alcohol Abuse Policy</b>	<b>Policy No:</b>	<b>03-002</b>
<b>Approved By:</b>	<b>Dale R. Berry, CEO</b>	<b>Effective Date:</b>	<b>October 1, 2003</b>

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### I. OBJECTIVE

Wehr Constructors, Inc. (hereafter "Wehr") is concerned about the effects of illegal or unauthorized use of drugs and the abuse of alcohol upon the health and safety of its employees. Being under the influence of a drug or alcohol on the job may pose serious safety and health risks not only to the user, but to those who work with the user and to the general public as well. In addition, the decreased productivity and dependability of these individuals because of drug and alcohol use places an increased burden on other employees and can adversely affect our ability to continue to provide appropriate service to our customers.

In light of these concerns, Wehr has adopted the following policy regarding the use, possession or sale of drugs and alcohol.

NO PART OF THIS POLICY, NOR ANY PROCEDURE THERIN, IS INTENDED TO AFFECT WEHR'S RIGHT TO MANAGE ITS WORKFORCE, BE CONSTRUED AS A GUARANTEE OF EMPLOYMENT OR CONTINUED EMPLOYMENT, OR LIMIT WEHR IN ITS RIGHT TO TERMINATE THE EMPLOYMENT OF ANY EMPLOYEE WITH OR WITHOUT CAUSE AND WITH OR WITHOUT NOTICE, UNLESS SUCH RIGHT IS OTHERWISE LIMITED BY THE TERMS AND PROVISIONS OF A COLLECTIVE BARGAINING AGREEMENT OR OTHER CONTRACTUAL AGREEMENT

### II. SCOPE

All Wehr Constructors, Inc. (Louisville Division) personnel, exclusive of officers and directors.

### III. STATEMENT OF POLICY

#### A. ALCOHOL/DRUG USE GENERALLY

##### 1. Alcohol

The possession of, use of, or being under the influence<sup>1</sup> of alcohol by an employee during work hours, while performing Wehr's business or otherwise while on Wehr's premises or in a Wehr vehicle is prohibited.

##### 2. Legal Drugs<sup>2</sup>

Except as provided below, the possession, sale, purchase, transfer, or use of, or being under the influence of (to the extent such use or influence may affect the safety of co-workers or members of the public, the employee's job performance, or the safe or efficient operation of Wehr equipment) any legally obtained drug by any employee during work hours, while performing Company business, or otherwise while on Company premises, a Company worksite or in a Company vehicle is prohibited. An employee may continue to work, even though under the influence of a legal drug, if management has determined, after consulting with its Company physician, that the employee does not pose a threat to their own safety or the safety of co-workers and that the employee's job performance is not significantly affected by the legal drug.

##### 3. Illegal Drugs<sup>3</sup>

The possession, sale, purchase, transfer, or use of, or being under the influence of any illegal drug by any employee during work hours, while performing Company business, or otherwise while on Company premises, a Company worksite or in a Company vehicle is prohibited. The presence, in any detectable amount, of any illegal drug in an employee during work hours, while performing Company business, or otherwise while on Company premises, a Company worksite or in a Company vehicle is prohibited

#### B. TESTING AND SEARCHES

##### 1. Three (3) Day New Hire Drug Testing

During the first three (3) days of an employee's employment with Wehr, the employee

will be required to submit to drug testing. The date and time of such testing will be determined by Wehr in its sole discretion and without prior notice to the employee. If the results of the drug test indicate the presence of illegal drugs in the employee's system, the employee will be subject to discharge.

2. Present Use/Under The Influence

When Wehr has reason to believe that an employee has been drinking or taking drugs, or is under the influence of alcohol or drugs, Wehr will provide the employee with an opportunity for verification testing for such drug or alcohol presence. Such reason shall include, but shall not in any way be limited to, employee appearance, behavior, conduct, judgment, coordination, or physical or mental ability, which in the judgment of the management of Wehr is inconsistent with safe operating procedures or this policy, as well as information, reports, or other evidence indicating that an employee (or employees) is in possession of, using or under the influence of alcohol or drugs which is brought to the attention of Wehr and upon which Wehr may reasonably rely. When an employee is required to submit to drug or alcohol verification testing pursuant to this paragraph, the employee will be permitted to return to work only upon receipt by Wehr of test results indicating that the employee was not under the influence of either drugs or alcohol.

3. Accident/Injury Testing

An employee who is involved in a work related accident (including a "near miss"), sustains a compensable injury, or through action or inaction is a contributing factor in an OSHA reportable accident or injury involving other persons, will be subject to drug and alcohol verification testing for the presence of drugs or alcohol based upon the fact of such accident, injury, action or inaction. When an employee is required to submit to drug and alcohol verification testing pursuant to this paragraph, Wehr shall determine, in its sole discretion, whether the employee will be permitted to return to work pending receipt of the test results by Wehr.

4. Random Testing and Other Testing

All Company employees, with the exception of officers and directors, will be subject to drug/alcohol testing at any time on a random basis as a term and condition of employment. Wehr also reserves the right to engage in such other testing of its employees as it may deem appropriate or necessary from time-to-time, or as may be outlined under 49 C.F.R. Part 40, including but not limited to periodic testing and annual testing of the entire workforce.

5. Testing Procedure

Testing shall be by breathalyzer test (which may be administered in-house), saliva, urinalysis or blood test to be administered by a hospital or medical laboratory or any other reasonable and appropriate testing device or a combination of these procedures. All employees subject to testing will sign, prior to testing, a consent/release form consenting to the testing and to the release of test results to a designated management official of Wehr, and a union representative when applicable. The refusal of an employee to execute said form will be deemed to be a refusal by the employee to submit to required testing and will subject the employee to immediate discharge as set forth in Paragraph 6 below.

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<sup>1</sup>For the purposes of administration of this policy, "under the influence" of alcohol or drugs means the presence of alcohol in the employee's system at a concentration of 0.02 percent or more, or the presence of drugs in the employee's system at or in excess of the test levels established in the Department of Transportation's "Procedures for Transportation Workplace Drug Testing Programs," 40 C.F.R. Part 40 (hereafter "40 C.F.R. Part 40"), as determined by means of testing for the presence of alcohol and drugs in an individual's system.

<sup>2</sup>"Legal Drugs" includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used in the dosages and for the purposes for which they were prescribed or manufactured.

<sup>3</sup>"Illegal Drug" means: any drug (a) which is not legally obtainable (including "look alikes", synthetic or "designer" drugs, and other mind altering substances); or (b) which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained, prescribed drugs in the name of someone other than the employee using the drugs, or prescribed drugs not being used for prescribed purposes. It also includes marijuana, a narcotic drug or any derivative thereof, an amphetamine or any formulation thereof, or any "Schedule I" drug, as defined in the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

6. Refusal to Submit to Testing

When an individual who is suspected of using or being under the influence of either drugs or alcohol is directed by Wehr to submit to drug/alcohol testing pursuant to this policy and such individual fails to submit to such required testing, including the failure or refusal to submit to treatment for a work-related injury that requires medical attention, the employee's refusal will be considered insubordination and a violation of Company work rules and the employee will be subject to immediate discharge. If an employee switches, adulterates, dilutes, or in any other manner modifies or attempts to modify a urine sample submitted for testing, such action shall be deemed to be a refusal to submit to required testing by the employee, the employee's refusal will be construed as a falsification of medical records and a violation of Company work rules, and the employee will be subject to immediate discharge.

7. Searches

Wehr retains the right to search at any time and for any reason any vehicle, locker or any other property owned, rented, leased or borrowed by Wehr, or otherwise made available by Wehr for use by an employee, or any personal item brought onto Company property by an employee, such as vehicles, packages, purses, lunch boxes and briefcases. Accordingly, an employee should have no expectation of privacy in such personal items. An employee's consent to submit to such a test or such a search is required as a condition of employment and the employee's refusal to consent may result in disciplinary action, including discharge, for a first refusal or any subsequent refusal.

8. Consequences of Policy Violation

An employee who is found to be in violation of this policy is subject to any level of discipline, up to and including discharge, for a first offense or any subsequent offense.

An employee who has tested positive on a drug/alcohol screen may be permitted, at the sole discretion of Wehr, to maintain their employment with Wehr under conditions established by Wehr, such as but not limited to the following: the employee must satisfactorily complete a drug/alcohol rehabilitation program acceptable to Wehr and present proof to that effect to Wehr; prior to being permitted to return to work, the employee must test negative to a drug/alcohol screen; for a specified period after being permitted to return to work, the employee will be subject to testing at any time on a random or periodic basis as a term and condition of employment.

C. CONFIRMATORY TESTING

In the case of drug testing, where the initial test conducted by the laboratory indicates the presence of drugs in the employee's system, the laboratory will validate the initial test results by a confirmatory test if requested.

**IV. COMMUNICATION OF TEST RESULTS**

All actions taken under the authority of this policy will respect the confidentiality of employees to the extent possible. Information relative to investigations, possible violations of the policy, drug/alcohol screen results, and other such information will be communicated only on a "need to know" basis.

The laboratory or medical facility performing the drug/alcohol testing will be directed to provide the results of any drug/alcohol screen to the examining physician or his representatives only. The results will be submitted to a designated management official of Wehr and when applicable, a designated union official.

**V. EMPLOYEES' REPORTING REQUIREMENTS – LEGAL DRUGS**

Any employee who is taking prescribed medication, or any employee who is taking over-the-counter medications, which could induce drowsiness, disorientation, impairment to coordination or attention, or any other impairment, and which could affect the employee's ability to perform their job must advise their foreman, superintendent, or Company officer of the type of medication being used, the amount of daily medication, the expected length of time they will be using such medication and the expected side effects of such medication. If in the opinion of

Wehr the medication renders an employee unfit to perform their duties safely and efficiently, they will either be reassigned to other work or sent home until they are fit to resume working. Failure to notify an immediate supervisor of consuming this type of medication will be a violation of this policy and result in disciplinary action up to and including termination.

#### **V. EMPLOYEE ASSISTANCE PROGRAM**

Wehr will designate an outside source to serve as an Employee Assistance Program (EAP) referral office to assist employees in matters relating to use of alcohol or drug use. It is the responsibility of each employee to seek assistance from the EAP before alcohol or drug use leads to a violation of this policy and disciplinary action. Once a violation of this policy occurs, subsequent use of the EAP on a voluntary basis may have no bearing on the determination of appropriate disciplinary action.

An employee's decision to seek prior assistance from the EAP will not be used as a basis for disciplinary action. However, use of such EAP will neither exempt an employee from either accepted performance standards or from disciplinary procedures, nor will EAP utilization protect an employee from violation of this policy or any other work rule or safety rule or procedure established by Wehr.

#### **VI. ADMINISTRATIVE RESPONSIBILITY**

Human Resources / Office Administrator

**Wehr Constructors, Inc. reserves the right, in its sole discretion, to change, revise, supplement or eliminate any policy, procedure and/or benefit described above without notice.**