

## 3.6 DRUG-FREE WORKPLACE & DRUG TESTING POLICY

### Letter to All Employees

The illegal use of drugs and the abuse of alcohol are problems that invade the workplace, endangering the health and safety of the abusers and those who work around them. This Company is committed to creating and maintaining a workplace free of substance abuse without jeopardizing valued employees' job security.

To address this problem, Miller Industries has developed a policy regarding the illegal use of drugs and the abuse of alcohol that we believe best serves the interests of all employees. Our policy formally and clearly states that the illegal use of drugs or the abuse of alcohol or prescription drugs will not be tolerated. As a means of maintaining our policy, we have implemented pre-employment and active employee substance abuse testing. This policy was designed with two basic objectives in mind:

1. Employees deserve a work environment that is free from the negative effects of drugs and alcohol and the problems associated with their abuse, and
2. This Company has a responsibility to maintain a healthy and safe workplace.

To assist us in providing a safe and healthy workplace, we maintain a resource file of information on various means of employee assistance in our community, including but not limited to drug and alcohol abuse programs. This information is available in Human Resources and will be distributed to employees for their confidential use.

An employee whose conduct violates this Company's Drug-Free Workplace & Drug Testing Policy, and who does not accept the help we offer under the EAP or other drug and/ or alcohol programs, will be disciplined up to and including termination. I believe it is important that we all work together to make this Company a drug-free workplace as part of our continual efforts to provide a safer and more rewarding place to work.

Sincerely,

A handwritten signature in dark ink, appearing to read "Will Miller", with a long horizontal flourish extending to the right.

Will Miller  
President & Chief Executive Officer  
Miller Industries Inc.

## Substance Abuse Policy Statement

Miller Industries is committed to providing a safe work environment and to fostering the well-being and health of its employees. This commitment is jeopardized when any employee of the Company illegally uses drugs on the job, comes to work under their influence, possesses, distributes, or sells drugs or drug paraphernalia in the workplace or abuses alcohol on or off the job. Therefore, the Company has established the following policy for all company employees (unless subject to the Company's DOT Drug and Alcohol Policy)<sup>1</sup>:

1. It is a violation of company policy for any employee to use, possess, sell, offer to sale or buy, trade, manufacture, or store an illegal drug<sup>2</sup> or drug paraphernalia, or attempting or assisting another to do so, or otherwise engage in the illegal use of drugs on the job, including while using a company owned, leased or rented vehicle, or on company business.
2. It is a violation of company policy for any employee to report to work under the influence of or while possessing in his or her body, saliva, blood or urine, illegal drugs.
3. It is a violation of company policy for any employee to report to work, or operate a company owned, leased, or rented vehicle, machinery or equipment under the influence of or impaired by alcohol.
4. It is a violation of the Company policy for any employee to use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained, or in a manner or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications.
5. Violations of this policy are subject to disciplinary action up to and including termination. It is the responsibility of the Company's supervisors and managers to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug and/or alcohol problem. Although it is not the supervisor's or manager's job to diagnose personal problems, the supervisor or manager should encourage employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug or alcohol problem to seek help.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment at Miller Industries.

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<sup>1</sup> For those Company employees who work outside of Tennessee, please see the applicable policy supplements for these jurisdictions. Where the state supplements differ from this policy, the state supplement will control. If the state in which you work does not have a supplement listed, this policy controls.

<sup>2</sup> All marijuana use is still illegal under federal law, although its consumption is legal under certain circumstances under some states' laws. The main chemical compound in marijuana is THC (tetrahydrocannabinol). The presence of THC, regardless of the way it has been consumed, will still reflect as "positive" on a drug test. Additionally, some CBD (cannabidiol) products derived from hemp may also contain levels of THC, which again may result in a positive drug screen. If you consume a CBD product, it is your responsibility to know its ingredients and select a quality product that will not report detectable THC levels on a drug screen.

As a condition of employment, employees must abide by the terms of this policy and must notify the Company in writing of any arrest and/or alleged violation of a criminal drug or alcohol statute occurring no later than five (5) calendar days after such occurrence. An employee must also notify the Company of any conviction of a violation of a criminal drug or alcohol statute occurring no later than five (5) calendar days after such conviction. A conviction includes any finding of guilt, including a no-contest plea, or imposition of a sentence. Appropriate disciplinary action will be taken, based upon the arrest, alleged violation, or conviction.

NOTE: For those employees who are subject to federal Department of Transportation ("DOT") regulations and requirements, please refer to the Company's DOT Drug and Alcohol Policy.

It is a condition of employment in a drug-free workplace for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in his or her body and if an injured employee refuses to submit to a test for drugs or alcohol, the employee may be ineligible for workers' compensation medical and indemnity benefits.

The Company offers an Employee Assistance (EAP) benefit for employees and their dependents. The EAP provides confidential assessment, referral and short-term counseling for employees who need or request it. If an EAP referral to a treatment provider outside the EAP is necessary, costs may be covered by the employee's medical insurance; but the cost of such outside services is the employee's responsibility. Confidentiality is assured. NO information regarding the nature of the personal problem will be made available to supervisors, nor will it be included in the permanent personnel file. Participation in the EAP will not affect an employee's career advancement or employment, nor will it protect an employee from disciplinary action if substandard job performance occurs. The EAP is a process used in conjunction with discipline, not a substitute for discipline.

The EAP can be accessed by an employee through self-referral or through referral by a member of Human Resources. Human Resources will distribute information about the EAP to employees for their confidential use.

This policy will apply to all classifications of employees working at Miller Industries locations.

### **General Procedures**

Any employee reporting to work impaired will be deemed unable to perform required duties and will not be allowed to work. If possible, the employee's supervisor will first seek another supervisor's opinion to confirm the employee's status. Next, the supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. If, in the opinion of the supervisor, the employee is considered impaired, the employee will be sent home or to a medical facility by taxi or other safe transportation alternative - depending on the determination of the observed impairment - and accompanied by the supervisor or another employee if necessary. A drug or alcohol test may be in order. An impaired employee will not be allowed to drive.

During an investigation involving the use or possession of controlled substances, drugs or alcohol, or once a determination of reasonable suspicion has been made, an employee shall not leave the work site without approval of a Company official, and then shall leave in the manner determined by that official. Employees leaving the work site without approval will be subject to discipline up to and including unpaid suspension and/or termination of employment.

The Company will contract with a laboratory authorized to perform the drug and/or alcohol testing in accordance with state and/or local law. Before testing, the Company will provide an employee or job applicant with a form on which to acknowledge that the employee or job applicant to be tested has seen this Policy. The Company may collect saliva, urine, or breath samples for testing.

If a drug test is in order in accordance with this policy, the employee will first be given a saliva test on site, witnessed by a member of the Company's Human Resources Department. If the saliva test is negative, the employee will be permitted to return to work. If the saliva test is positive, the employee will be sent for a laboratory test. All test samples will be subject to an initial screening test ("initial

test"). Samples that test positive for drugs and/or alcohol on the initial test will be subject to a "confirmatory test." Positive initial test results will not be reported to the Company until they have been verified by a confirmatory test. No employment decisions will be based on unconfirmed initial test results.

### **Opportunity to Contest or Explain Test Results**

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer; if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the Company.

### **Confidentiality**

Test results and other information acquired in the drug and alcohol testing process will be treated as confidential information and such results will be kept confidential and maintained separately from the tested individual's personnel file. With the written consent of the tested individual, the information may be disclosed to another employer or to a third-party individual, government agency, or private organization, subject only to the exceptions herein. Notwithstanding the foregoing, evidence of a positive test result on a confirmatory test may be used applicable state or local law, or a judicial proceeding, provided the information is relevant to the hearing or proceeding. Evidence of a positive test result on a confirmatory test may also be disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order, or in accordance with compliance requirements of a federal government contract and may also be disclosed to a substance abuse treatment facility for the purpose of evaluation or treatment of the employee.

## Job Applicant Drug Testing

All job applicants at this Company will undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result will be denied employment. Applicants will be required to submit voluntarily to an on-site saliva test and/or urinalysis test at a site chosen by this Company, and by signing a consent agreement will release this Company from liability. If the physician, official, or lab personnel have reasonable suspicion to believe that the job-applicant has tampered with the specimen, the applicant will not be considered for employment. This Company will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that this Company will not tolerate.

## Employee Drug Testing

This Company has adopted testing practices to identify employees who use illegally use drugs on or off the job or who abuse alcohol on the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:

1. Reasonable Suspicion - When there is reasonable suspicion to believe that an employee is illegally using drugs or abusing alcohol. 'Reasonable suspicion' is based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, but not limited to, the following:

- A. Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- B. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- C. A report of substance abuse provided by a reliable and credible source;
- D. Evidence that an individual has tampered with any substance abuse test during his or her employment with the Company;
- E. Information that an employee has caused or contributed to an accident while at work; or
- F. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working, or while on Company premises, or while operating a Company vehicle, machinery, or equipment.

2. Random Testing- Random testing for drugs and alcohol will be mandatory for all employees. The selection process for random testing will be performed by an outside agency contracted by the Company. The agency will select the names of employees to be tested on an unannounced date. The selected employee will self-collect a saliva sample with a mouth swab in the presence of a Company representative. If the saliva test is positive, the agency will then provide collection of specimens at a site designated by the Company, provide Medical Officer Review (MRO) services, and provide the Director of Human Resources or the Manager of Human Resources with the test results.

3. Post – Accident - The Company will send employees for a substance abuse test if they are involved in on-the-job accidents where personal injury or damage to company property occurs. After a reported on the job injury/illness, testing for drugs or alcohol must be administered as soon as practicable, after medical treatment for the injury/illness has been administered (within 8 hours for alcohol, 32 hours for drugs). In the case of a nonemergency injury/illness reported to the Company after the fact, the injured employee must submit to testing at that time. Testing will also be administered on any other covered employee whose performance could have contributed to the accident. Refusal to submit to a drug or alcohol test may make an employee ineligible for the employee's right to workers' compensation medical and indemnity benefits.

4. Follow-up Drug or Alcohol Testing - If an employee enters a drug or alcohol assistance or rehabilitation program, the employee is required to submit to a drug or alcohol test as a follow-up to such program. The follow-up testing will be required monthly for a two (2) year period after successful completion of a rehabilitation program. Advance notice of the testing will not be given.

5. Routine fitness-for-duty drug or alcohol testing. The Company will require an employee to submit to a drug or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination where the examinations are required by law, regulation, are part of the Company's established policy, or one that is scheduled routinely for all members of an employment classification group.

### **Alcohol Testing**

The consumption or possession of alcoholic beverages on this Company's premises is prohibited (Company sponsored activities which may include the serving of alcoholic beverages are not included in this provision). An employee whose normal faculties are impaired due to alcoholic beverages, or whose blood alcohol level tests .08% by weight for non-safety sensitive positions, or .04% for safety sensitive positions, while on duty/company business shall be in violation of this policy, and shall be subject to discipline up to and including termination.

### **Refusal to Submit**

Any employee who refuses to submit to any drug and/or alcohol test either by word or action (e.g., not providing a sufficient specimen) constitutes a refusal to test and disciplinary action up to and including termination may occur.

## Important Information for Job Applicants and Employees

Any testing of employees normally shall occur during, or immediately before or after, a regular work period. Testing is deemed work time for the purposes of compensation and benefits for current employees.

When an employee or job applicant submits to a drug and/or alcohol test, they will be issued a form on which to acknowledge that he/she has seen the Company's drug and alcohol testing policy and to consent to the testing. They will also be given a form by the specimen collector that contains a list of common medications and substances which may alter or affect the outcome of a drug or alcohol test. This form will also have a space for the donor to provide any information that he/she considers relevant to the test, including the identification of currently or recently used prescription or non-prescription medication or other relevant information. The information form should be kept by the job applicant or employee for their personal use.

If the job applicant or employee has a positive confirmed test result a medical review officer will attempt to contact the individual to privately discuss the findings with that person. The job applicant or employee should keep the form as a reminder to discuss this information at that time. The medical review officer will take this information into account when interpreting any positive confirmed test results. The information provided shall be treated as confidential and will not be given to the employer.

Employees and job applicants have the right to consult with a medical review officer for technical information regarding prescription and non-prescription medicine.

### ***Substance abuse testing for job applicants and employees will include a saliva and/or urinalysis screen for the following drugs: \****

Alcohol: Any "Alcoholic Beverage", all liquid medications containing ethyl alcohol (ethanol). Please read the label for content. For example; Vicks Nyquil™ is 25% (50 proof) ethyl alcohol, Comtrex™ is 20% (40 proof), Contac Severe Cold Formula Night Strength™ is 25% (50 proof) and Listerine™ is 26.9% (54 proof).

Amphetamines: "speed," "uppers," etc.

Cannabinoids: THC, marijuana, hashish, "pot," "grass," "hash," etc.

Cocaine: "coke," "crack," etc.

Phencyclidine: PCP, "angel dust."

Opiates: Narcotics, Heroin, Codeine, Morphine, "smack, dope, etc..."

***\* The Company will not test for the presence of cannabinoids during pre-employment or random drug tests.***

## Consequences for Testing Positive for Drugs or Alcohol

If a positive drug test is reported to the Company, the information is confidential and reported only to the Human Resources Director or Human Resources Manager. Only those that have a "need to know" will be informed (i.e., immediate Supervisor/Manager), after Human Resources has met with the employee. The employee will be given a choice: 1) voluntarily resign, or 2) receive disciplinary action up to termination.



## Eligibility for Rehire

Employees who voluntarily resign or are terminated for violating the substance abuse policy will have a waiting period of 180 days before they are eligible for rehire. If rehired, the employee will be subject to random drug or alcohol testing monthly for two (2) years.

The drug tests for the first year will be employee paid; the drug tests for the second year will be employer paid. If during these two (2) years any positive report of a drug or alcohol test is received by the Company, the employee will be terminated immediately and will not be considered again for rehire.

## Voluntary Admission of a Drug or Alcohol Problem Prior To a Drug and/or Alcohol Test

Employees needing assistance in dealing with drug or alcohol dependency are encouraged to consult with the EAP to obtain information on the availability of assistance resources, treatment clinics, and programs.

If an employee voluntarily admits he or she has a drug and/or alcohol problem, the employee will be given an opportunity to seek drug and/or alcohol assistance as a condition of continued employment with the Company, or furnish written proof of currently receiving assistance from an alcohol and/or drug assistance or rehabilitation program, using the following guidelines:

Up to three (3) days of personal leave in which to seek help and furnish proof from the alcohol and/or drug facility or professional, to the Human Resources Director or the Human Resources Manager, of entering a drug or alcohol assistance or rehabilitation program. The employee must exhaust any vacation, sick, or incentive time available before utilizing unpaid time off.

If the drug or alcohol rehabilitation professional recommends in-patient or other types of treatment that would interfere with the employee's work schedule, the employee may apply for FMLA or a leave of absence.

Proof of seeking help must be provided no more than four (4) business days from the date the employee is granted three (3) days of personal leave. If the employee chooses not to seek assistance and the proof is not furnished within this timeframe, the employee will be considered to have voluntarily resigned from his or her position.

Conduct or performance violations occurring prior to an employee's disclosure of a drug and/or alcohol problem may still result in employee discipline, up to and including termination of employment.

## **Drug-Free Workplace and Drug/Alcohol Testing Policy Acknowledgment**

I hereby certify that I have received a copy of Miller Industries' and its subsidiaries (referred to in the policy as "Miller Industries" or the "Company") Drug-Free Workplace & Drug/Alcohol Testing Policy. I understand that I am responsible for reading and following this policy. If I have any questions about this policy, I will promptly ask Human Resources.

Nothing in this policy is to be construed to prohibit Miller Industries from maintaining a safe work environment or imposing disciplinary action as it deems appropriate for reasons of misconduct or poor performance, regardless of whether the misconduct or poor performance arises from drug or alcohol use. Such disciplinary actions may include termination of employment. Employment is at-will and subject to termination by Miller Industries or the Employee at any time, with or without notice and with or without cause. I acknowledge that my signing of this acknowledgment is a voluntary act on my part and that I have not been coerced into signing this document by anyone.

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Employee (Signature)

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Date

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Employee (Print Name)

### **STATE SUPPLEMENTS**<sup>3</sup>

**For Pennsylvania employees/applicants only, the base policy shall be modified as follows:**

Unless doing so would constitute an act that would put the Company in violation of federal law, the Company will not discharge, threaten, refuse to hire, or otherwise discriminate or retaliate against an employee based solely on the employee's status as a person certified to use medical marijuana.

The Company will not accommodate medical marijuana use at the place of employment, and the Company may discipline employees for being under the influence of medical marijuana in the workplace.

The Company prohibits an employee licensed to use medical marijuana from performing any task or duty which the Company deems life-threatening, to either the employee or any of the Company's employees, or which could result in a public health or safety risk, while under the influence of medical marijuana.

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<sup>3</sup> Where a state supplement differs from the base policy, the supplement controls. Where the state supplement is silent on a particular topic or situation, the base policy controls. If the state in which you work does not have a supplement listed, the base policy controls.