



# Liquid Pipelines/Major Projects United States Non-DOT Contractor Drug and Alcohol Policy

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## Table of Contents

<b>1.0</b>	<b>PURPOSE.....</b>	<b>3</b>
<b>2.0</b>	<b>SCOPE / APPLICATION .....</b>	<b>3</b>
<b>3.0</b>	<b>GENERAL GUIDELINES.....</b>	<b>3</b>
<b>4.0</b>	<b>ROLES &amp; RESPONSIBILITIES.....</b>	<b>4</b>
4.1	National Compliance Management Service Inc. (NCMS) and ISNetworld .....	5
4.2	Enbridge .....	5
4.3	Enbridge Regional Safety Coordinator / Inspector.....	5
4.4	Contractor.....	5
4.5	Contractor Personnel .....	6
<b>5.0</b>	<b>CONTRACTOR WORK POLICIES .....</b>	<b>7</b>
<b>6.0</b>	<b>DRUG AND ALCOHOL TESTING .....</b>	<b>7</b>
6.1	Testing Requirements .....	7
6.2	Testing Records .....	7
<b>7.0</b>	<b>PRE-EMPLOYMENT DRUG TESTING.....</b>	<b>7</b>
<b>8.0</b>	<b>VISITORS .....</b>	<b>8</b>
<b>9.0</b>	<b>REFUSAL TO TEST .....</b>	<b>8</b>
<b>10.0</b>	<b>CONTRACTOR RECORDS AND REPORTING .....</b>	<b>8</b>
<b>11.0</b>	<b>VIOLATION OF THIS POLICY – EFFECTS .....</b>	<b>8</b>
<b>12.0</b>	<b>FIELD VERIFICATION/SPOT CHECKS .....</b>	<b>9</b>
<b>13.0</b>	<b>ENBRIDGE SEARCHES AND INSPECTIONS.....</b>	<b>9</b>
<b>14.0</b>	<b>Appendix A .....</b>	<b>10</b>
	US Department of Transportation Part 40- Procedures for transportation Workplace Drug and Alcohol Testing Programs (Updated May 4, 2012) .....	10
	Part 199- Drug and Alcohol Testing .....	10
	What Employers Need to Know about DOT Drug and Alcohol Testing .....	10

## 1.0 PURPOSE

Enbridge is committed to providing workplaces that protect people, property and the environment from harm. It recognizes that the use of illicit drugs and the inappropriate use of alcohol, medications (prescribed or over-the-counter) and other substances can adversely affect work performance and the health, safety and well-being of employees, contractors, consultants, worksite visitors and the public.

In support of this commitment, and given the engagement of contractors, Enbridge has developed this Contractor Non-DOT Drug and Alcohol Policy (the "**Policy**").

## 2.0 SCOPE / APPLICATION

This Policy applies to all individuals or entities engaged directly or indirectly to an Enbridge company as a contractor, subcontractor or consultant to provide any services at or in relation to an Enbridge Work Site (a "**Contractor**"). Enbridge employee obligations are addressed under separate policy.

Enbridge's separate written DOT Contractor Drug and Alcohol Policy also applies to any Contractor who performs "covered" tasks, that is, any operation, maintenance, repair or new installation of existing pipelines or facilities.

For the purposes of this Policy, "**Work Site**" includes any location at which services are provided to or for Enbridge and includes, but is not limited to, construction rights-of-way and all land(s) secured by Enbridge in connection with installation of its pipelines, any appurtenances thereto, or other facilities related to Enbridge's business as a pipeline owner / operator, and also including any vehicle or mobile equipment used by the Contractor or consultant to provide services or to travel to and from such location. This definition of "Work Site" applies whether or not Enbridge is designated as the "prime contractor" under applicable legislation.

## 3.0 GENERAL GUIDELINES

A Contractor is, except as expressly outlined elsewhere within this Policy, solely responsible for providing training to, and oversight of:

- a) its employed and contracted personnel, and
- b) its subcontractors and their employed or contracted personnel

(collectively, "**Contractor Personnel**") in accordance with this Policy. This Policy includes requirements for drug and alcohol testing in the following circumstances: pre-employment, random, testing based on reasonable cause, post-accident, return to duty and follow-up testing.

A Contractor will follow this Policy and conform its own policies and procedures with the US Department of Transportation ("**DOT**") regulations contained in 49 C.F.R. *Part 40- Procedures for Transportation Workplace Drug and Alcohol Testing Programs* and 49 C.F.R. *Part 199- Drug and Alcohol Testing*, as they may be amended from time to time, the "**US DOT Requirements**" (see Appendix A). For the purposes of this Policy, "US DOT Requirements" encompasses the rules and regulations of all relevant and applicable transportation-related agencies/industries, including, but not limited to, the United States Coast Guard ("**USCG**"), the Federal Aviation Administration ("**FAA**"), the Federal Railroad Administration ("**FRA**"), the Federal Motor Carrier Safety Administration ("**FMCA**"), the Pipeline and Hazardous Materials Safety Administration ("**PHMSA**"), and the Office of the Secretary.

The Contractor will apply US DOT Requirements to all employees as if they are covered employees to the extent permitted by applicable state and local law. A Contractor will also conform its own policies and procedures to state and local law to the extent state and local law is not preempted by federal law,

regulation, or other authority. In addition, because testing of all employees is not required by federal law, Contractor's policy must include provisions for obtaining the consent of all employees for the release of drug and alcohol test results through the use of consent forms compliant with the Health Insurance Portability and Accountability Act of 1996 and associated regulations.

The Contractor's drug and alcohol testing policy must make it clear that said policy is independently required by the Contractor (Client required) and may not be required by DOT or any federal law or regulation. The testing of all employees must use different forms and not use the Federal Custody and Control Form or the DOT Alcohol Testing Form. DOT tests must be completely separate from non-DOT tests in all respects. Employees covered by this Policy must not be in the same testing pool as "covered employees", and the testing records for employees covered by this Policy must be kept separately from the testing records for "covered employees".

A Contractor shall have a drug and alcohol policy (a "**Proposed Contractor Policy**") that has been approved by the National Compliance Management Service Inc. ("**NCMS**") and reported as satisfactory in ISNetworld (a "**Contractor Policy**") for ISNetworld subscribed contractors or reported as satisfactory in the NCMS database, for those contractors approved as not requiring an ISNetworld subscription.

A Contractor will diligently exercise its authorities and perform its obligations pursuant to its Contractor Policy.

Enbridge may require that a Contractor exercise any of its authorities or perform any of its duties under a Contractor Policy.

If Enbridge determines, in its sole discretion, it is appropriate to do so, Enbridge may elect to step into the shoes of a Contractor with regard to the administration of this Policy and of the Contractor's Policy. This would generally be appropriate in circumstances in which a Contractor does not (or may be perceived by Enbridge to not) have sufficient organizational capacity to provide for independent oversight of its Contractor Personnel as required by this Policy.

If Enbridge determines, in its sole discretion, it is appropriate to do so, Enbridge may exempt a Contractor from operation of this Policy in whole or in part in circumstances where application is problematic or impractical, including circumstances of legal constraint or limitation on access to facilities required for drug and alcohol testing. Any such circumstances will be raised, in writing, by the Contractor and any resulting exemption will be approved by an Enbridge Vice President and then confirmed in writing.

If Enbridge determines, in its sole discretion, it is appropriate to do so, Enbridge may exempt a low risk, non-ISNetworld subscribed Contractor from Operation of this Policy, in whole or in part, when circumstances render such application impractical. Any such circumstances will be raised in writing by the Contractor, and any resulting exemption for a low risk, Non-DOT, non-ISNetworld subscribed Contractor will be approved by an Enbridge Director and confirmed in writing.

Having a current and effective Contractor Policy approved by Enbridge shall be a condition precedent for any Contractor being permitted to perform work for Enbridge.

#### **4.0 ROLES & RESPONSIBILITIES**

Successful implementation of this Policy requires the coordination of several persons. Key responsibilities are listed below.

#### **4.1 National Compliance Management Service Inc. (NCMS) and ISNetworld**

- NCMS will receive (from the Contractor) and review a Contractor's Proposed Contractor Policy and documentation for adherence to the requirements of this Policy and of US DOT requirements.
- If NCMS determines that a Proposed Contractor Policy adheres to the requirements of this Policy and US DOT Requirements, it will register this in the NCMS database and so notify ISNetworld where applicable. ISNetworld will record this within its system.
- If NCMS determines that a Proposed Contractor Policy does not meet the requirements of this Policy and US DOT Requirements, it will advise the Contractor of any such failure, and will communicate steps that may be taken to qualify the Proposed Contractor Policy as a Contractor Policy. This will be recorded in the NCMS database and ISNetworld (where applicable).

#### **4.2 Enbridge**

- Will ensure that Contractors are not permitted to work without an NCMS approved Contractor Policy.
- Will monitor Contractors for adherence to this Policy and to other Enbridge Work Site requirements, including making periodic spot checks.
- Will monitor Contractors' exercise of their authorities and performance of their duties under their respective Contractor Policy, including monitoring to ensure that Contractors provide training to their Contract Personnel in the same manner as required under US DOT Requirements.
- Will exercise its discretion, in circumstances described in Section 3.0 herein where Enbridge has determined it is necessary to, to step into the shoes of a Contractor and administer the Contractor Policy or a similar policy compliant with Enbridge requirements.
- Will verify that Enbridge receives all required records and reporting from Contractors.
- Will ensure that a Contractor addresses in a timely manner deficiencies in the exercise of its authorities or performance of its duties under its Contractor Policy or under this Policy.

#### **4.3 Enbridge Regional Safety Coordinator / Inspector**

- Will liaise with all parties involved in any alcohol and drug testing process.

#### **4.4 Contractor**

- Will develop and deliver drug and alcohol training that adheres to the requirements of the Policy and US DOT Requirements to its Contractor Personnel.
- Will diligently exercise its rights and perform its obligations under its Contractor Policy.
- Will notify NCMS if the Contractor intends to use a subcontractor in order that NCMS may initiate audit of the subcontractor and grant viewable access to the contractor to ensure subcontractor compliance to this Policy.
- Will provide NCMS the names of the Contractor's employees who will perform functions other than covered tasks. This information may include the name and job

title of the Contractor's employees who will perform functions other than covered tasks.

- Will provide Enbridge information on the Contractor's employees who are or who have been prevented from providing services to Enbridge as a result non-compliance with this Policy, a Contractor Policy or US DOT Requirements.
- Will ensure that Contractor supervisors are knowledgeable about and able to recognize the signs and symptoms of alcohol and drug use (i.e. reasonable suspicion training).
- Upon request by Enbridge, will provide Enbridge access to all records Enbridge deems necessary for verification of Contractor's compliance with this Policy. Enbridge also reserves the right to perform periodic or random on-site inspections of Work Sites and other locations to ensure compliance by Contractor with its drug and alcohol testing program and this Policy.
- Will ensure that Contractor Personnel are made aware of resources available to them for treatment of drug and alcohol problems.

#### **4.5 Contractor Personnel**

Contractor Personnel will:

- Read, understand and abide by this Policy and the relevant Contractor Policy.
- Be in a 'fit for duty' condition (i.e. able to perform their work safely and effectively) at all times and recognize that fitness for duty may be affected by, among other things, use of alcohol, prescription or non-prescription medications and illicit drugs.
- Observe the 'fitness for duty' of others on or around Enbridge Work Sites and take appropriate action to notify a supervisor when health or safety issues are observed.
- Work with the Contractor and with Enbridge to ensure successful implementation of this Policy, of the Contractor Policy and of similar Enbridge policies.
- Notify their supervisor as soon as possible if taking prescription or over-the-counter medications which may cause drowsiness, dizziness or other side-effects that could affect the Contractor Personnel's ability to work or the health or safety of themselves or of others.

Contractor Personnel will not:

- Distribute, possess (including within a vehicle or piece of equipment accessible to, or under the control of, that person), consume or use alcohol or illegal drugs at or near any Enbridge Work Site (including related parking lots), while directly or indirectly engaged in work of any kind for Enbridge, or while traveling to or from work of any kind for Enbridge.
- Report to work at an Enbridge Work Site while impaired in a manner (including under the influence of alcohol, drugs or any substance) that could reasonably be expected to affect their ability to perform their work safely and effectively.
- Accept an unplanned request to work (usually a request to perform emergency or specialty work) if there is a reasonable basis to believe that he or she would be unable to comply with this Policy.

Contractor Personnel are also encouraged to voluntarily seek help with addiction issues, through the relevant Contractor or otherwise, and to follow the advice of any health care or substance abuse professional regarding appropriate treatment.

## 5.0 CONTRACTOR WORK POLICIES

A Contractor's policies and practices will conform to this Policy, with its own Contractor Policy, and with the relevant industry US DOT testing requirements.

## 6.0 DRUG AND ALCOHOL TESTING

### 6.1 Testing Requirements

All drug and alcohol testing must meet Enbridge requirements and mirror relevant industry US DOT Requirements.

Drug and alcohol testing including pre-employment, random testing, reasonable cause testing will be done in accordance with the provisions set out by US DOT Requirements (see Appendix A).

Post-incident/accident testing will be performed only when injury or illness occurs as a result of the incident or accident. Post-incident/accident testing will be performed only if contractor supervision/management determines that drug or alcohol use or abuse likely contributed to the incident/accident. Note: Contractor personnel are not permitted to return to work on Company premises until documentation has been received showing the negative drug and alcohol test results.

Pre-employment, random, post-incident and reasonable cause testing as defined by this Policy will apply to the above-listed personnel to the extent permitted by applicable federal, state and local law.

### 6.2 Testing Records

All Contractors will be required to submit drug testing statistical information on a monthly basis. Enbridge may require a more frequent schedule for submission of data should it determine there is a need for such statistics.

## 7.0 PRE-EMPLOYMENT DRUG TESTING

Contractor Personnel hired after June 1, 2016 must receive pre-employment testing as set forth in Section 7.0.

A Contractor will not dispatch or permit Contractor Personnel access to a Work Site unless said Personnel have provided a negative drug sample (collectively, a "**Negative Sample**") within 30 calendar days immediately prior to proposed access to a Work Site.

Notwithstanding the foregoing restriction, a Contractor may nevertheless dispatch or permit Contractor Personnel to access a Work Site when the Contractor Personnel:

- (a) has provided a Negative Sample and has since then **(i)** remained in continuous employment with the Contractor and **(ii)** been in compliance with the Contractor's Policy;
- (b) was, as of June 1, 2016, engaged in active work at an Enbridge Work Site by the Contractor and has since then **(i)** remained in continuous employment with the Contractor at an Enbridge Work Site and **(ii)** been in compliance with the Contractor's Contractor Policy; or

(c) is required for emergency work (as determined by Enbridge)

Pre-employment testing as required by this Policy and as defined by the relevant industry US DOT Requirements will apply to the above- listed personnel to the extent permitted by applicable federal, state and local law.

## 8.0 VISITORS

A “**Visitor**” is an escorted visitor to an Enbridge Work Site who is not Contractor Personnel and who has completed the necessary Visitor Orientation. Visitors include Sales Representatives, Consultants, Union officials and representatives. No Visitors will be permitted on site if they are on a suspension list.

## 9.0 REFUSAL TO TEST

If any Contractor Personnel refuses or fails to participate in a drug or alcohol test as required by a Contractor Policy, the Contractor will immediately notify Enbridge in writing.

## 10.0 CONTRACTOR RECORDS AND REPORTING

The Contractor will maintain confidential and secured records regarding all matters relating to administration of its Contractor Policy, including records relating to drug and alcohol testing and training and education program delivery. Contractors will retain these records until the later of **(a)** agreement with Enbridge, or **(b)** 2 years from the completion of work at a particular Work Site.

## 11.0 VIOLATION OF THIS POLICY – EFFECTS

Upon receiving notification of a drug or alcohol test returning a positive, tampered or inconclusive result (a “**Non-negative Result**”) in response to the request of any Contractor Personnel to participate in a drug or alcohol test required by a Contractor Policy, or upon becoming aware of a breach of this Policy or of a Contractor policy by Contractor Personnel, a Contractor will:

- a) Ensure that the Contractor Personnel is escorted safely from the Work Site to their residence or other safe location (when it is reasonable to do so);
- b) Immediately notify Enbridge, in writing, about the event, including the Contractor Personnel’s name and details of the breach (i.e. refusal to test, violation of this Policy or Contractor Policy, etc.). If the breach involves a Non-negative Result, the Contractor will also provide the reason for the drug and alcohol test along with the nature of the drug and alcohol test result; and
- c) Not return the Contractor Personnel to service at an Enbridge Work Site unless directed otherwise by Enbridge in writing.

Contractor Personnel who return a Non-negative Result, or who have otherwise violated this Policy or a relevant Contractor Policy, will automatically be excluded for an indefinite time from Enbridge Work Sites (an “**Indefinite Exclusion**”).

A Contractor or an individual subject to an Indefinite Exclusion may apply to Enbridge in writing (an “**Application**”) to request that Enbridge review the terms of the Indefinite Exclusion. Enbridge may rescind or revise the terms of an Indefinite Exclusion in its sole discretion, and as provided under applicable federal and state law. Without limiting the generality of the foregoing, for the purposes of reviewing an Application, Enbridge may require evidence sufficient to demonstrate that the Contractor Personnel has successfully completed a relevant drug or alcohol treatment program and/or would be



subject to appropriate return to work controls with related procedures likely to minimize the risk of future similar policy violations.

## **12.0 FIELD VERIFICATION/SPOT CHECKS**

Periodic field verifications/spot checks may be performed by Enbridge to verify Contractor compliance with drug and alcohol testing requirements under this Policy.

## **13.0 ENBRIDGE SEARCHES AND INSPECTIONS**

In enforcing aspects of this Policy, Enbridge may perform searches anytime for drugs or alcohol at and around Enbridge Work Sites. Such searches may include but not be limited to searches of:

- Vehicles and their contents, at or upon entering a Work Site (including parking lots and related access roads).
- Property inspection including, offices, field areas, building equipment, packages, bags, containers, lockers, tool boxes, etc..

Cooperation with personnel performing searches is mandatory.

## 14.0 Appendix A

US Department of Transportation Part 40- Procedures for transportation Workplace Drug and Alcohol Testing Programs (Updated May 4, 2012)

- <http://www.dot.gov/odapc/part40>

Part 199- Drug and Alcohol Testing

- [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr199\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr199_main_02.tpl)

What Employers Need to Know about DOT Drug and Alcohol Testing

- [https://www.transportation.gov/sites/dot.gov/files/docs/ODAPC\\_Employer\\_Guidelines\\_%20June\\_1\\_2015\\_0.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/ODAPC_Employer_Guidelines_%20June_1_2015_0.pdf)