

INTRODUCTION

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is the agency within the Department of Transportation (DOT) that regulates operators in the natural gas and hazardous liquid pipeline industry. In order to comply with both DOT and PHMSA requirements, E & B Oilfield Services Inc. has established this program regarding drug abuse and alcohol misuse in the workplace.

DEVELOPMENT OF A “COMBINED” PLAN

PHMSA’s Drug and Alcohol Testing Regulation (49 CFR Part 199), and the DOT (49 CFR Part 40), require E & B Oilfield Services Inc. to develop, maintain, and follow a Substance Abuse Prevention Plan.

Historically, companies have produced separate plans to address these regulations. This Substance Abuse Prevention Plan (SAPP) identifies the requirements necessary to meet both sets of regulations in a single document.

Authorization for a combined plan was granted by PHMSA’s Office of Pipeline Safety, stating: “PHMSA will allow the combining of the two plans into one written plan, as long as all requirements of each regulation are met.” The “requirements of each regulation” means the requirements of PHMSA Part 199 and the requirements of DOT’s “Procedures for Transportation Workplace Drug and Alcohol Testing,” 49 CFR Part 40.

The DOT/PHMSA Drug and Alcohol Prevention Plan, hereafter referred to as the “Plan,” meets all requirements of Part 199 and Part 40.

APPROACH

The generic word “Company” in this document will refer to the operator or contractor for which it is applicable. PHMSA’s requirement for plan development and implementation applies equally to each operator and contractor performing safety-sensitive operations, maintenance, or emergency-response functions on a pipeline or liquefied natural gas (LNG) facility within the natural gas and hazardous liquid pipeline industry. The Plan will describe how E & B Oilfield Services Inc. will comply with both sets of government requirements.

The Plan will identify “Company-specific requirements that go beyond the minimum requirements of DOT. These Company specific requirements will be underscored. As a result, anything that is not underscored should be considered a requirement of DOT or a process put in place by E & B Oilfield Services Inc. to meet a DOT requirement.

Appendix D outlines the Company disciplinary actions and additional procedures.

This Plan is written in “plain language” to adhere to the requirements of each rule. The Plan does not repeat the language of either Part 40 or Part 199 as doing so would require E & B Oilfield Services Inc. to produce a new plan every time DOT or PHMSA issued a change to their respective rule. The goal of DOT is to know that E & B Oilfield Services Inc. understands the requirements of the rules and how it will go about achieving compliance. The Plan makes use of existing DOT language in places where necessary to explain a more detailed process (e.g., specimen collection and alcohol test procedures are extracted from DOT’s “Employee Guide”).

GENERAL INFORMATION

SAFETY

DOT requires transportation employers to develop and implement drug and alcohol testing programs in the interest of public safety. Safety is the highest priority for DOT. One of the means by which the DOT helps ensure safety is by subjecting those workers responsible for transportation safety to drug and alcohol testing. Workers tested under the DOT program have direct impact on the safety of the traveling public or the safety of those potentially affected by the transportation of hazardous products, such as natural gas, liquefied natural gas, and hazardous liquids.

COMPANY RESPONSIBILITIES

In order to comply with DOT and/or PMSHA requirements E & B Oilfield Services Inc. will establish the following Substance Abuse Prevention Program (SAPP) using the following procedures:

- The Company will publish a letter of notification to all employees informing them of the intent to institute the program.
- A notice of the implementation date of the program will be displayed in all prominent places with it can be viewed by employees
- The plan will be reviewed by the Company annually and revised as necessary
- A copy of the current plan will be made available for review by all employees or authorized representatives
- All employees will be required to complete an acknowledgement form stating that they have been informed of the Company plan and agree to abide by the plan
- All potential employees, and employees transferred into positions where the plan requirements apply, will be required to undergo substance abuse testing prior to being permitted to begin work

- Employers must have an awareness program to educate employees about alcohol and drug abuse and addiction, the employer's policy, and available help, including counseling and other assistance.
- Employees must disclose any conviction for a drug-related offense in the workplace to the employer within five days after such conviction.
- Employers must disclose any conviction for a drug-related offense in the workplace to the Federal agency with which the employer has a grant or contract, within ten days after receiving notice from the employee or others.
- Employers must make an ongoing effort to maintain a drug-free workplace.

NOTE: Copies of the notices and forms identified above are included in Appendix A of this manual.

TEST PROCEDURES

The overall responsibility for management and coordination of the DOT program resides within the Office of the Secretary of Transportation's (OST) Office of Drug and Alcohol Policy and Compliance (ODAPC). ODAPC issues Part 40. Whether the transportation employee is a pipeline worker, truck driver, or airline pilot, their drug and alcohol tests are conducted using the same Part 40 procedures. This consistency benefits all employees affected by DOT regulations in that each agency's regulations must adhere to DOT's testing procedures. Better known simply as "Part 40," this rule has become the standard for workplace testing in the United States.

COMPLIANCE ENFORCEMENT

Regulation and enforcement within the different transportation industries is the responsibility of the DOT agency that has authority over the particular industry. The regulatory authority requiring drug and alcohol testing of safety-sensitive employees in aviation, trucking, railroads, and mass transit industries is the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The OTETA did not specifically address the pipeline industry. PHMSA has regulatory authority over the pipeline industry and conveyed their authority for drug and alcohol testing through the issuance of their regulation, Part 199. Part 199 spells out who is subject to testing, when, and in what situations. Operators, and in turn, their associated contractors, implement the regulations.

SCOPE

Operators of pipeline facilities subject to 49 CFR Parts 192, 193, or 195 are required to test covered employees for the presence of prohibited drugs and alcohol. Contractors doing similar work on the behalf of their operators are subject to the same requirements. Part 199 requires of each operator the assurance that any contractor performing any DOT safety-sensitive work for that operator, under Parts 192, 193, or 195, is in full compliance with the provisions of the DOT's drug and alcohol program, as applicable.

APPLICABILITY

Part 199, and the provisions of this plan, applies to operators and contractors only with respect to their employees located within the territory of the United States, including those employees located within the limits of the "Outer Continental Shelf." Part 199 and the provisions of the Plan do not apply to covered functions performed on master meter systems or pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.

COMPLIANCE

Plan Development

The Plan meets the requirement of Part 199, paragraphs 101 and 202, which require E & B Oilfield Services Inc. to have a written anti-drug plan and a written alcohol misuse prevention plan. The Plan describes the methods and procedures for compliance with the drug and alcohol program requirements of the DOT, including the employee assistance program. The Plan covers the operational, day-to-day requirements that are found in Part 199, and the procedural testing requirements that are found in Part 40. The Plan provides appendices for the name and address of each laboratory that analyzes specimens for the Company, the Company's Medical Review Officer, and Substance Abuse Professionals. The Plan communicates to employees, Company officials, and DOT officials the path that E & B Oilfield Services Inc. will follow in order to comply with the requirements for a successful DOT drug and alcohol program.

Plan Availability

The Plan will be posted by E & B Oilfield Services Inc. in common places at the jobsite(s) for employee review and feedback. A copy of the Plan will be made available to all covered employees. Any covered employee desiring a copy of Part 40 and/or Part 199 must contact David Abegglen or the Designated Employer Representative. The Plan provides a basic description of the rules and testing requirements, and shows how E & B Oilfield Services Inc. implements and follows them. The Plan is not meant as a substitute for the detail provided in either rule. If there is any difference in instruction or interpretation between the Plan and the rules, the rules prevail. The Plan will be updated at any time if its language, or the intent of its language, differs from that of either Part 40 or Part 199. Employees are encouraged to obtain and read Part 40 and Part 199 on their own.

“DOT” VS “PHMSA”

All DOT workplace testing procedures will follow Part 40 requirements. All DOT procedural responsibilities for pipeline operators and contractors will follow Part 199. In the Plan, the term “DOT” will be used for references to general requirements (e.g., testing procedures) placed on all transportation employers, including operators and contractors. The use of the term “PHMSA” will be to distinguish specific, unique administration requirements versus general, DOT requirements (e.g., random alcohol testing is not authorized by PHMSA).

DOT PROCEDURES

E & B Oilfield Services Inc. will assure that the procedures of Part 40 are followed for drug and alcohol testing conducted under the requirements and authority of Part 199; a violation of Part 40 is a violation of Part 199. If the Company employs a Consortium/Third-Party Administrator (C/TPA) to assist in program development, implementation, and management, the C/TPA will, likewise, follow all requirements of Part 40 and Part 199. It is the Company’s goal to establish and maintain compliance with the DOT drug and alcohol program.

STAND-DOWN WAIVER

DOT “stand-down” is not in effect for this Company. E & B Oilfield Services Inc. does not hold a stand-down waiver under Part 40, and has not applied for one. Should this status change, the Company will notify all covered employees and Company officials, in accordance with Part 40 requirements.

PRE-EMPTION OF STATE AND LOCAL LAWS

Part 40 and Part 199 are Federal laws. Federal law preempts any state or local law, rule, regulation, or order if:

- Compliance with both the state or local requirement and Part 40 or 199 is not possible
- Compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement of Part 40 or 199
- The state or local requirement is a pipeline safety standard applicable to interstate pipeline facilities

This provision does not pre-empt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, employers, or to the general public