



**Berkshire Hathaway Energy**  
**Contractor Anti-Drug and Alcohol Misuse Prevention Policy**

**Purpose**

In an effort to provide a drug- and alcohol-free environment that assures quality work, and a safe work environment, contractors must agree to implement a drug and alcohol testing program that meets full compliance with all state and federal laws, including but not limited to the Drug-Free Workplace Act of 1988; The Omnibus Transportation Employee Testing Act of 1991; the U.S. Department of Transportation Office of Drug and Alcohol Policy and Compliance regulations, 49 Code of Federal Regulations Part 40; relevant Department of Transportation Pipeline and Hazardous Materials Safety Administration, or PHMSA, regulations, 49 CFR Part 199; and relevant Department of Transportation Federal Motor Carrier Safety Administration, or FMCSA, regulations, 49 CFR Part 382.

Unless exempted by Berkshire Hathaway Energy, employees of contractors who are not regulated under the requirements listed above must be included in a contractor's drug and alcohol testing program that meets the requirements of applicable regulations and includes the following:

- Pre-employment testing
- Random testing
- Reasonable suspicion testing
- Post-accident testing
- Return-to-duty testing
- Follow-up testing

The contractor's program shall cover all employees and subcontractors of the contractor who are assigned to perform work for Berkshire Hathaway Energy and its subsidiaries and affiliates. See the additional guidelines section of this policy for guidance on which contractors must comply.

To the extent that a conflict is deemed to exist, any and all applicable federal, state and local statutes or regulations as they apply to employee drug and alcohol testing of this nature will supersede this policy and contractor's program as applied to work performed for Berkshire Hathaway Energy.

**Testing**

The testing regime shall cover the drugs for which tests are required under Part 40 and Department of Transportation agency regulations: marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates, and alcohol. The drug and alcohol tests required pursuant to the contractor's program must be conducted by an authorized facility that is qualified to perform regulated drug and alcohol testing. The contractor's program shall ensure that all Department of Transportation testing is conducted only by a laboratory that is certified by the Department of Health and Human Services under the National Laboratory Certification Program.

## Results

*Positive* – If a contractor’s or subcontractor’s employee tests positive, the contractor or subcontractor will immediately remove the employee from Berkshire Hathaway Energy facilities and the employee will be barred from performing work for Berkshire Hathaway Energy for the time period designated below. The contractor will promptly notify Berkshire Hathaway Energy’s contract administrator of the change in employment status of the contractor’s or subcontractor’s employee. Failure to notify Berkshire Hathaway Energy about changes in the employment status of contract employees could jeopardize the contractor’s ability to tender proposals for future work. Repeated failures to notify or disregard for this notification will result in the contractor’s removal from the bidder’s list for one year. The contractor shall not divulge confidential or protected information about their employees to Berkshire Hathaway Energy.

No test shall be confirmed positive without the advice of a medical review officer. A positive result in the drug and alcohol abuse testing program indicates that any one of the following has occurred:

- A contractor’s or subcontractor’s employee tested positive.
- A contractor’s or subcontractor’s employee refused to participate in the program.
- A contractor’s or subcontractor’s employee submitted an adulterated specimen.

In the event a positive result occurs, the employee is not permitted to perform work for Berkshire Hathaway Energy, by the contractor or the subcontractor, for the periods specified below.

First positive result:	90 days and after successful completion of regulatory- or policy-mandated substance abuse counseling, completion of negative return-to-duty testing, and agreement to periodic follow-up testing
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Second positive result:	Permanent ban from performing work for Berkshire Hathaway Energy
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The contractor will notify Berkshire Hathaway Energy’s contract administrator of the employee’s employment status so that security access for the employee may be removed from Berkshire Hathaway Energy facilities.

*Negative* – A negative test result indicates that the participant has met the minimum safety requirements as to drug and alcohol testing and may be permitted access to perform work for Berkshire Hathaway Energy.

## Monitoring of Program Requirements

Berkshire Hathaway Energy uses a third-party administrator to act as its agent for monitoring contractor anti-drug and alcohol misuse prevention plans if the contractor is performing operations, maintenance or emergency-response functions on pipelines and liquid natural gas facilities regulated under 49 CFR Parts 192, 193 or 195. This third-party administrator is authorized by Berkshire Hathaway Energy to

request Anti-Drug and Alcohol Misuse Prevention Plans, statistical data and other documentation from the contractor to ensure each plan is Department of Transportation PHMSA compliant and to report annual testing statistics. Contractors must cooperate with reasonable requests for information and be determined compliant by the third-party administrator prior to performing operations, maintenance or emergency response functions on pipelines and liquid natural gas facilities for Berkshire Hathaway Energy.

#### **Additional Guidelines**

A contractor's program shall require all subcontractors engaged by the contractor to comply with the provisions of the policy and the contractor's program. Failure of the contractor or any of its subcontractors to comply with the requirements of the policy and the contractor's program shall be grounds for termination of the contract between Berkshire Hathaway Energy and the contractor and immediate cessation of work for Berkshire Hathaway Energy.

Contractors must adhere to this policy unless advised otherwise by Berkshire Hathaway Energy.

A copy of the contractor's program shall be furnished upon request to Berkshire Hathaway Energy prior to commencement of work and may be reviewed for compliance with the requirements of the contract and this policy.

Berkshire Hathaway Energy reserves the right to audit the contractor's program at any time to verify compliance with the contract and this policy. The right to audit shall include the right to access pertinent documentation and records of the contractor's program.

The contractor shall provide written notice to its employees and those of its subcontractors that the contractor's program is mandatory for any work to be performed for Berkshire Hathaway Energy.

**CAUTION! - This document may be out of date if printed.**