



U.S. Department of Transportation  
Pipeline and Hazardous Materials  
Safety Administration



# **Drug and Alcohol Programs**

**49 CFR PART 40**

**49 CFR PART 199**



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**Pipeline and  
Hazardous Materials  
Safety Administration**





<http://www.phmsa.dot.gov/drug>

**PHMSA**  
U.S. Department of Transportation  
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49 CFR Part 199 (PHMSA drug and alcohol testing regulation) and 49 CFR Part 40 (DOT drug and alcohol testing regulation) require operators to conduct drug and alcohol testing of covered employees who perform operation, maintenance, or emergency-response functions regulated by 49 CFR Parts 192, 193, or 195.

- > [49 CFR Part 199 \(PHMSA Regulation\)](#)
- > [49 CFR Part 40 \(DOT Regulation\)](#)

**MIS Reporting**

Management Information System (MIS) report forms are used to collect pertinent drug and alcohol data from pipeline operators.

In accordance with 49 CFR 199.119 and 49 CFR 199.229, pipeline operators subject to 49 CFR part 199 regulations with more than 50 covered employees are required to submit an MIS report annually. Small operators (50 or fewer covered employees) subject to 49 CFR 199 are required to submit an MIS report only upon PHMSA's written notice.

[MIS Reporting Guidance](#)

[Federal Register Notice - CY 2014 Random Drug Rate, Contractor Reporting, and DAMIS UN/PW](#)

- > [MIS Online Reporting](#)

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**DOT/PHMSA/OPS  
Office of Substance Abuse  
Policy, Investigations &  
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## Substance Abuse Programs

### 49 CFR Part 199

- Policy
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- 49 CFR Part 40
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# Part 40 Drug & Alcohol Testing

## Procedures for Transportation Workplace

General regulations for all parties who conduct drug and alcohol tests required by Department of Transportation (DOT) agency regulations how to conduct these tests and what procedures to use.



# **Part 40 PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS (Updated: April 13, 2015)**

Has 18 Subparts

- Subpart A – Subpart R
- Copies available at:

<http://www.transportation.gov/odapc>

<https://www.transportation.gov/sites/dot.dev/files/docs/PART40.pdf>



# Part 199 Drug & Alcohol Testing

## Pipeline Safety Regulations Drug and Alcohol Testing

This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.

**This part does not apply to master meter systems, or pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.**



# Part 199 Drug & Alcohol Testing

## Has 3 Subparts

- Subpart A – General
- Subpart B – Drug Testing
- Subpart C – Alcohol Misuse Prevention Program



## §199.3 Prohibited Drug

**Prohibited drug** means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).



## **§199.3 Covered Employee**

**Covered employee, employee, or individual to be tested** means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors



## §199.3 Covered Function

**Covered function** means an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter that is performed on a pipeline or on an LNG facility.



## **§199.9 Preemption of State and local laws**

- (a) Except as provided in paragraph (b) of this section, this subpart preempts any State or local law, rule, regulation, or order to the extent that:
- (1) Compliance with both the State or local requirement and this subpart is not possible;
  - (2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in this subpart; or
  - (3) The State or local requirement is a pipeline safety standard applicable to interstate pipeline facilities.



## **§199.9 Preemption of State and local laws**

(b) This subpart shall not be construed to preempt 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 or employers or to the general public.



# §199.105

## Drug Tests Required

### Drug Test Types:

- Pre-employment tests
- Random
- Reasonable Suspicion/Reasonable Cause
- Post-Accident
- Return-to-Duty
- Follow-up



# **Notice November 12, 2014**

## **Notice of Minimum Annual Percentage Rate for Random Drug Testing.**

Minimum random drug testing rate for covered employees will remain at 25 percent during calendar year 2015.



## **§199.103 Use of persons who fail or refuse a drug test**

- (a) An operator may not knowingly use as an employee any person who:**
- (1) Fails a drug test required by this part and the medical review officer makes a determination under DOT Procedures; or**
  - (2) Refuses to take a drug test required by this part.**



# **§199.111 Retention of sample and retesting.**

**REMOVED!**

**Amendment. 199-27**

**Effective Date: March 6, 2015**

**Covered Under Part 40**



# **§199.225(a)**

## **Alcohol Testing Required**

### Alcohol Test Types:

- Reasonable Suspicion/Reasonable Cause
- Post-Accident
- Return-to-Duty
- Follow-up



## **§199.223 Refusal to submit to a required alcohol test**

No operator shall permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.



# Inspection Forms

- Specimen Collection Site Audit
- Alcohol Testing Site Audit
- Drug Program Audit
- Alcohol Misuse Audit
- Comprehensive Drug and Alcohol Program Audit

The screenshot shows the PHMSA website interface. At the top, there is a search bar and navigation links for 'Careers', 'Contact Us', 'FAQs', and 'Site Map'. Below the search bar is a 'Go' button and an 'Advanced Search' option. The main navigation menu includes 'For the Public', 'Hazmat Safety Community', 'Pipeline Safety Community', 'Media | Congress', and 'Doing Business with PHMSA'. The 'Pipeline Safety Community' menu is expanded, showing a breadcrumb trail: 'Home > Pipeline Safety Community > Regulations > Drug & Alcohol Testing > Inspection'. The main content area is titled 'Drug & Alcohol Inspection Forms' and contains the text: 'The following forms are provided in Word format and can be typed in or written on once printed.' Below this text is a 'Forms' section with a list of links: 'PHMSA OPS Specimen Collection Site Audit Protocol Form 3.1.7', 'PHMSA OPS Alcohol Testing Site Audit Protocol Form 3.1.8', 'PHMSA OPS Drug Program Audit Protocol Form 3.1.9', 'PHMSA OPS Alcohol Misuse Audit Protocol Form 3.1.10', and 'Comprehensive Drug and Alcohol Program Audit Protocol Form 3.1.11'. To the right of the main content is a 'Drug & Alcohol Testing Menu' with links for 'Drug & Alcohol Regulations & Reporting', 'Inspection Forms', 'Interpretations & Guidance', and 'Contact Us'. A 'Home' button is located at the bottom left of the page.

<http://www.phmsa.dot.gov/pipeline/drug/inspect>



# PHMSA Substance Abuse Auditing Program

## What are inspectors looking for?

- Compliant written & implemented substance abuse plans & policies that meet Part 199 requirements
- Compliant drug or alcohol testing procedures and processes that meet Part 40 requirements
- Compliant process for handling employees with positive testing results
- Appropriate roles & responsibilities of service providers:  
Should never replace the Designated Employer Representative's (DER) intrinsic responsibilities



# **PHMSA Substance Abuse Auditing Program**

## **Post-accident testing requirements**

### **What are inspectors looking for?**

- Defined reportable Part 191 or Part 195 accident/incident D&A testing process
- Documentation indicating meeting the 2 and 8 hour post-accident/incident alcohol testing milestones
- Documentation indicating meeting the 32 hour post-accident/incident drug testing milestones
- Justification and documentation as to why post-accident/incident D&A testing was not performed



# **PHMSA Substance Abuse Auditing Program**

**Substance abuse random drug testing and on-suspicion alcohol testing**

## **What are inspectors looking for?**

- Compliant random drug testing selection process
- Process for educating/communicating to covered employees regarding donor collection process for drug testing and breath analysis alcohol testing
- Assure random alcohol testing is precluded unless covered employees are part of FMCSA pool (e.g., CDL holders)



# PHMSA Substance Abuse Auditing Program

## Supervisor training for recognizing substance abuse

### What are inspectors looking for?

- Documented supervisor training to recognize and assess substance abuse for on-suspicion drug and/or alcohol testing of covered employees
- Documentation for supervisors receiving at least 60-minutes of drug training and 60-minutes of alcohol training
- Keeping-up with knowledge of Employee Assistance Programs (EAP)



# PHMSA Substance Abuse Auditing Program

Employee Assistance Program (EAP) mandates

## What are inspectors looking for?

- Documentation indicating process for educating/communicating consequences of substance abuse and available EAP programs to covered employees
- Demonstrable example of company EAP “display and distribution” of informational materials, a community hot-line, and the company’s policy on illicit drug and alcohol use



## **Advisory Bulletin No. ADB-2012-02 Issued February 23, 2012**

### **Pipeline Safety: Natural Gas and HL Pipeline Operators Post Accident Drug and Alcohol Testing.**

Part 199 require pipeline operators and operators of Liquefied Natural Gas (LNG) facilities to conduct post- accident drug and alcohol tests of covered employees.

Within the mandated timelines after a reportable pipeline accident or incident, operators must drug and alcohol test each covered employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident or incident.

Operators must make the determination of employee contribution to the accident or incident promptly to meet the timelines for testing required by the regulations. This was further emphasized by the National Transportation Safety Board (NTSB) in its report of the September 9, 2010, incident in San Bruno, California.



## **Advisory Bulletin No. ADB-2012-02 Issued February 23, 2012**

### **Pipeline Safety: Natural Gas and HL Pipeline Operators Post Accident Drug and Alcohol Testing.**

- PHMSA reminds operators of the need to conduct post-accident drug and alcohol testing of all potentially involved personnel despite uncertainty about the circumstances of the accident.
- The term “accident” in Part 199 includes both “incidents” reportable under Part 191 and “accidents” reportable under Part 195. Covered employees include both operator employees and contractor employees performing operations, maintenance, or emergency response functions.



## Part 199 D&A Plans

- Review and update as necessary, plans and procedures
  - Include in emergency procedures
- Train personnel and supervisors, maintain records of such training
- Maintain file when D&A testing not done post incident/accident



# Web Sites

## **ODAPC Link:**

<http://www.transportation.gov/odapc>

## **PHMSA Inspection Link:**

<http://www.phmsa.dot.gov/pipeline/drug/inspect>

## **PHMSA Regulations and Reporting Link:**

<http://www.phmsa.dot.gov/pipeline/regs/drug>



# Remember!

## Be Safe and Keep Others Safe

