



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

Substance Abuse

Deterrence and Discovery *Program Updates*

SOUTH DAKOTA/NORTH DAKOTA PIPELINE SAFETY OPERATOR TRAINING

Hosted by:

South Dakota Public Utilities Commission

in cooperation with

U. S. Department of Transportation

Pipeline and Hazardous Materials Administration (PHMSA)

Office of Training & Qualification and Eastern Region

Sioux Falls, SD

March 15 – 17, 2011

DeWitt Burdeaux

Inspector Training & Qualifications

U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

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Stanley T. Kastanas, Director

Office of Substance Abuse Policy, Investigations, and Compliance

National Programs, Washington DC

Pipeline and Hazardous Materials Safety Administration

PHMSA – Office Pipeline Safety (PHP-2)



Overview

- 👉 **Changes to the Regulations**
- 👉 **Contractor MIS Reporting Initiative**
- 👉 **Identifying Multiple OpIDs in Operator MIS Reports**
- 👉 **New Comprehensive Protocol Audit Initiative**
- 🏛️ **Contact information**



DOT/PHMSA/OPS Office of Substance Abuse Policy, Investigations & Compliance

Substance Abuse Programs

49 CFR Part 199

Policy

Auditing

Investigations

Compliance

Regulation

Guidance

MIS Reporting

DAMIS DBA

49 CFR Part 40

Collaborative Policy

Auditing

Compliance

The screenshot shows the PHMSA website's 'Drug & Alcohol Program' page. The page features a navigation menu on the left with categories like 'About Us', 'Calendar', 'Data & Statistics', and 'Regulations'. The main content area includes a 'Drug & Alcohol Program' header with a 'No Alcohol/Drugs' icon, a 'Drug & Alcohol Regulations' section detailing 49 CFR Part 199, and a 'Reporting Information' section. A sidebar on the right contains a 'Drug & Alcohol Testing Menu' and a 'Mini-Menu'.



Harmonization with HHS Mandatory Guidelines Final Rule Effective October 1, 2010

Testing laboratory requirements include:

- Testing for MDMA (aka. Ecstasy);
- Lowering cutoff levels for cocaine and amphetamines;
- Conducting mandatory initial testing for heroin;
- Propose bringing a number of DOT's testing definitions in-line with those of HHS



Harmonization with HHS Mandatory Guidelines Final Rule Effective October 1, 2010

Requirements for MROs and Specimen Collectors:

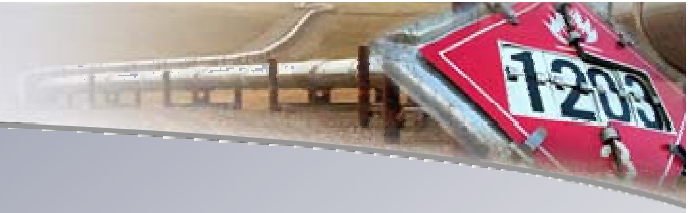
- Effective January 1, 2011, each Medical Review Officer (MRO) will need to be re-qualified – including passing an examination given by an MRO training organization - every five years. The Final Rule eliminated the requirement for each MRO to take 12 hours of continuing education every three years.
- Collectors are now allowed to make a decision for Direct Observation based on Part 40 requirements without requirement for prior supervisory approval



Updated U.S. DOT Custody and Control Form (CCF)

DOT published an interim final rule authorizing employers to use the new Federal Drug Testing Custody and Control Form beginning October 1, 2010. Old CCF forms cannot be used after **September 30, 2011**. The published rule covers the following:

- DOT made a few necessary regulation changes in order for collectors, laboratories, and Medical Review Officers to know how to use the new form.
- The DOT also made a technical amendment to its drug testing procedures.



Updated U.S. DOT Alcohol Testing Form (ATF)

Use of the new ATF went into effect on **January 1, 2011**. The new forms provide the following:

- i. Updated the Paperwork Reduction Act Burden Statement;
- ii. New DOT form number;
- iii. There additional instructions on the reverse side of page 3 of the ATF form; and
- iv. The legends in the test result boxes on the front of the ATF were adjusted and printed in a smaller font .



Updated Management Information System (MIS) Data Collection Form:

A new MIS form is authorized for use in **2011 for reporting calendar year 2010 MIS data** - which was due March 15, 2011. The only changes made are as follows:

- i. Updated the Paperwork Reduction Act Burden Statement;
- ii. New DOT form number;
- iii. MIS instructions changed “RSPA” to “PHMSA.”



Public Interest Exclusion (PIE) Listing

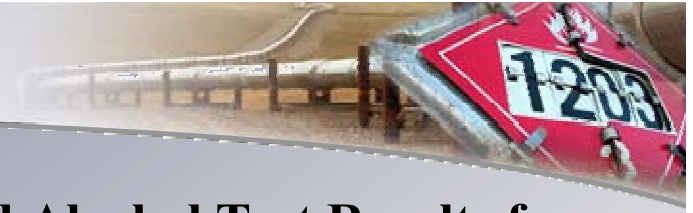
Please be aware that the following service agent is **excluded** from providing drug and alcohol testing services in any capacity to any DOT-regulated employer **for a period of five (5) years beginning on November 17, 2009:**

- **Michael R. Bennett, Workplace Compliance, Inc.** in North Carolina, Texas, and all other places it is incorporated.



DOT's Position on Medical Marijuana When Allowed by Any State Law

- A state adopting a “medical marijuana” statute is **not** a valid medical explanation for a pipeline covered employee’s positive drug test result under
- Medical Review Officers (MRO) will **not** verify a drug test as negative based upon information that a physician recommended that the employee use “medical marijuana”
- Marijuana remains a drug listed under Schedule I of the Controlled Substances Act
- Contact PHMSA/OPS’ Office of Policy, Investigations and Compliance regarding the use of the only US FDA approved synthetic cannabinoid, Marinol (dronabinol)



MIS Reporting Drug and Alcohol Test Results for Contractors

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

Careers | Contact Us | FAQs | Site Map

Advanced Search

For the Public | Hazmat Safety Community | Pipeline Safety Community | Media | Congress | Doing Business with PHMSA

Home » Pipeline Safety Community » Regulations » Advisory Bulletins

75 FR 2926 - ADB-09-04

Jan 14, 2010

PHMSA-2009-0408; Pipeline Safety: Pipeline Safety: Reporting Drug and Alcohol Test Results for Contractors and Multiple Operator Identification Numbers
ADB-09-04

SUMMARY: This notice advises operators of gas, hazardous liquid, and carbon dioxide pipelines and liquefied natural gas facilities that the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), is modifying the Drug and Alcohol Management Information System (DAMIS) to allow the reporting of contractor data without duplication and will begin collecting annual drug and alcohol testing data for contractor employees with Management Information System (MIS) reports due March 15, 2010. The collection of contractor MIS reports will provide data for the entire pipeline industry to calculate the required minimum annual percent rate for random drug testing. Operators will also identify all OPS issued operator identification numbers (OpID) covered by a MIS report of operator employees.

View/Print Public Comments submitted to the Federal Document Management System from the link to the right. NOTE: search for comments using the entire FR number (for example '72 FR 71735'). Not all items will have submitted public comments.

Related Links:
PDF

• About Us
• Calendar
• Contact Us
• Data & Statistics
• Drug & Alcohol Testing
• Enforcement
• Federal and State Partners
• Initiatives
• Inspection
• Integrity Management Program (IMP)
• Library
• NTSB Safety Recommendations
• Online Data Entry
• Stakeholder Communications
• Regulations
• Research & Development
• Security
• Special Permits & State Waivers
• State Programs
• Technical Advisory

- Operator collection and submission of MIS reports for contractor “covered employees”
- 49 CFR Part 199 holds pipeline operators accountable for monitoring contractor compliance
- Contractors identified through their Business Tax Identification Number (BTIN)
- Federal Register Advisory Bulletin “ADB-09-04 - 75 FR 2926” was issued on Jan 14, 2010 to address this contractor MIS notification



MIS Reporting Drug and Alcohol Test Results for Operators with Multiple OpIDs

The screenshot shows the PHMSA website interface. At the top, there is a navigation bar with links for 'Careers', 'Contact Us', 'FAQs', and 'Site Map'. Below this is a search bar with a 'Go' button and an 'Advanced Search' link. The main content area features a breadcrumb trail: 'Home > Pipeline Safety Community > Regulations > Advisory Bulletins'. The title of the notice is '75 FR 2926 - ADB-09-04' with a date of 'Jan 14, 2010'. The notice text includes a 'SUMMARY' section that states: 'PHMSA-2009-0408; Pipeline Safety: Pipeline Safety: Reporting Drug and Alcohol Test Results for Contractors and Multiple Operator Identification Numbers ADB-09-04'. The summary explains that PHMSA is modifying the Drug & Alcohol Management Information System (DAMIS) to allow for reporting contractor data without duplication and will begin collecting annual drug and alcohol testing data for contractor employees with Management Information System (MIS) reports due March 15, 2010. It also mentions that the collection of contractor MIS reports will provide data for the entire pipeline industry to calculate the required minimum annual percent rate for random drug testing. A 'Related Links' section contains a link to a PDF document. On the left side of the page, there is a vertical navigation menu with various categories such as 'About Us', 'Calendar', 'Contact Us', 'Data & Statistics', 'Drug & Alcohol Testing', 'Enforcement', 'Federal and State Partners', 'Initiatives', 'Inspection', 'Integrity Management Program (IMP)', 'Library', 'NITSS Safety Recommendations', 'Online Data Entry', 'Stakeholder Communications', 'Regulations', 'Research & Development', 'Security', 'Special Permits & State Waivers', 'State Programs', and 'Technical Advisory'.

- Operators identify all OPS issued operator identification numbers (OpID) covered by a single MIS report
- Operators with either single or multiple OpIDs, must determine whether scheduled annual MIS reporting are required for submittal
- Federal Register Advisory Bulletin “ADB-09-04 - 75 FR 2926” was issued on Jan 14, 2010 to address this contractor MIS notification



Determining Scheduled Annual MIS Reporting

Single or Multiple OpID Reporting

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75 FR 2926 - ADB-09-04
Jan 14, 2010

Related Links:
• PDF

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Step 1: Determine the number of all operator covered employees (i.e., include in the sum any other OpID covered employees) performing §199.3 covered functions during the previous calendar year.

Example: Assume 20 operator covered employees

*Step 2: Determine the number of employees performing §199.3 covered functions during the previous calendar year for each contractor. Sum the number of contractor employees. **Example, : Four (4) contractors with 25 covered employees each for a sum of (25+25+25+25 =) 100 contractor covered employees***



Determining Scheduled Annual MIS Reporting

Single or Multiple OpID Reporting

Step 3: Add the number of operator and contractor covered employees from Steps 1 and 2. If this number is less than 50, a MIS report is required only if you receive a letter from OPS requesting a MIS report.

In this example, 20 operator and 100 contractor covered employees are summed up to equal 120 combined covered employees

Since **120 > 50**, **this operator requires no PHMSA/OPS notification** and, therefore, **will have to schedule a separate MIS submission as the operator and separate submissions for each of the operator's contractors by the annual reporting date**

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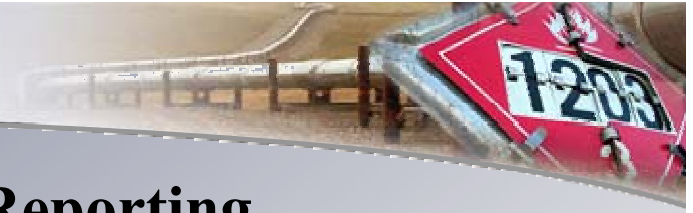
75 FR 2926 - ADB-09-04
Jan 14, 2010

Related Links:
• PDF

PHMSA-2009-0408: Pipeline Safety: Pipeline Safety: Reporting Drug and Alcohol Test Results for Contractors and Multiple Operator Identification Numbers ADB-09-04

SUMMARY: This notice advises operators of gas, hazardous liquid, and carbon dioxide pipelines and liquefied natural gas facilities that the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), is modifying the Drug and Alcohol Management Information System (DAMIS) to allow the reporting of contractor data without duplication and will begin collecting annual drug and alcohol testing data for contractor employees with Management Information System (MIS) reports due March 15, 2010. The collection of contractor MIS reports will provide data for the entire pipeline industry to calculate the required minimum annual percent rate for random drug testing. Operators will also identify all OPS issued operator identification numbers (OpID) covered by a MIS report of operator employees.

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Management Information Reporting

On-line/Electronic Process ability:


“Collect” → “Verify” → “Connect”

Step 13: Figure 9 is a representation of both captured OpIDs (❶) and contractor/subcontractor BTINs (❷) (❸) with their, respective, MIS data status. Clicking on the “User Name and Password List” link (❹) will generate a document with the listed contractors/subcontractors sign-in information that can be printed. The PPO or its designee can use this document to sign-in and enter each contractors/subcontractors MIS data.



U.S. Department of Transportation

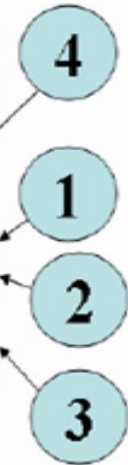
**2009 Drug & Alcohol Testing
Management Information System**



PHMSA
Pipeline and Hazardous Materials
Safety Administration

Logout

Status					
Company Name	Type	Data	Status	Change Status	User Name / Password
You are an operator. Each operator is responsible for ensuring the accuracy and timeliness of each MIS report submitted.					
OPERATOR NAME LOCATION	PHMSA Primary Operator	Enter or Edit Your Data View Your Data/Read Only MIS Data Collection Form (PDF Format) *	Data is Incomplete Data Time		User Name & Password List **
The following Operator IDs are covered by this MIS report: 0000			Edit Operator IDs		
The following contractor performed 49 CFR Part 199.2 "covered field" for the Operator IDs covered by this MIS report:			Edit Contractors		
Contractor/Sub ABC Tax ID: 00-0000000	PHMSA Contractor / Subcontractor		No Data Has Been Entered		ABCDEFGB 0123456789
Legend:	Data is Incomplete or Signed, Pending Operator Review	No Data Has Been Entered or Rejected by Operator	Signed, Accepted by Operator		





PHMSA D&A Auditing Program : Statistics for CY 2009

- Management Information System (MIS) reports filed for CY 2009 by April of 2010 (Note: Extended from March 15th only for CY2009)
 - ✓ The verified positive random drug testing rate is less than 1%
 - ✓ The actual annual drug random testing is at 31.3% vs. 25% min.
 - ✓ Based on the above results, random drug testing rate remained at 25% for CY 2011
 - ✓ The confirmed BAC positive rate is less than 2% for the combined alcohol testing categories

U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM
Calendar Year Covered by this Report: _____ OMB No. 2105-0130

I. Employer:
Company Name: _____
Doing Business As (DBA) Name (if applicable): _____ Email: _____
Address: _____
Name of Certifying Official: _____ Signature: _____
Telephone: (____) _____ Date Certified: _____
Prepared by (if different): _____ Telephone: (____) _____
C/PTA Name and Telephone (if applicable): _____

Check the DOT agency for which you are reporting MIS data, and complete the information on that same line as appropriate:
 ___ PHMSA - Motor Carrier (DOT) _____ Other operator (circle one) YES or NO _____ (Circle One) YES or NO
 ___ PHMSA - Pipeline (Check Gas Gathering, Gas Transmission, Gas Distribution, Transport Hazardous Liquids, Transport Carbon Dioxide)
 ___ FRA - Railroad - Total Number of observed documented Part 219 "Rule G" Observations for covered employees _____
 ___ USCG - Maritime - Vessel ID # (USCG) or Other (name): _____ (If more than one vessel, list separately)

II. Covered Employees: (A) Enter Total Number Safety-Sensitive Employees in All Employee Categories: _____
 (B) Enter Total Number of Employee Categories: _____

(C)

Employee Category	Total Number of Employees in this Category

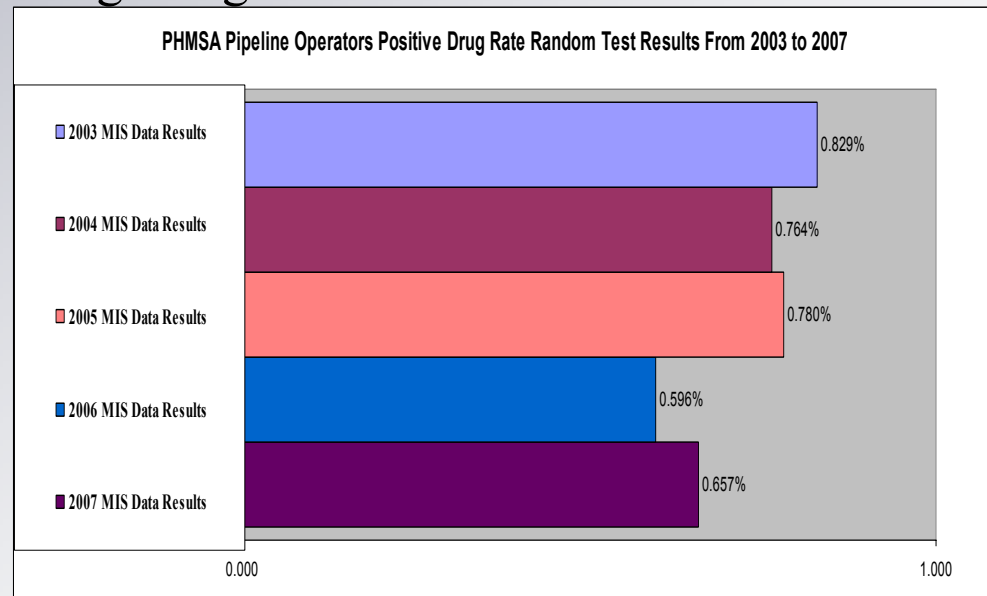
If you have one or more employee categories, complete Sections I and II (A & B). Then check the box and make one stop for each employee category and complete Sections II (C), III, and IV for each separate employee category.

III. Drug Testing Data:

Type of Test	Drug Testing Data												Random Results						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Pre-Employment																			
Random																			
Post-Accident																			
Reasonable Suspicion																			
Return-to-Duty																			
Follow-Up																			
TOTAL																			

IV. Alcohol Testing Data:

Type of Test	Alcohol Testing Data									Random Results									
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Pre-Employment																			
Random																			
Post-Accident																			
Reasonable Suspicion																			
Return-to-Duty																			
Follow-Up																			
TOTAL																			





PHMSA D&A Auditing Program : Objective, Strategy, & Goal

Objective:

- Renew and significantly increase Federal and State focus on drug and alcohol program risk

Strategy:

- For the immediate future, focus heavily on operator and contractor compliance inspections and enforcement of our drug and alcohol program requirements

Goal:

- Assure ourselves that pipeline operators and contractors are fully complying with both PHMSA (i.e., Part 199) and US DOT (i.e., Part 40) requirements, and that the potential risks these requirements address are mitigated.



PHMSA D&A Auditing Program : Comprehensive Audit (Protocol Format)

The screenshot shows the PHMSA website interface. At the top left is the PHMSA logo and name. To the right are navigation links for Careers, Contact Us, FAQs, and Site Map, along with an Advanced Search box. Below the header is a navigation bar with categories: For the Public, Hazmat Safety Community, Pipeline Safety Community (highlighted), Media | Congress, and Doing Business with PHMSA. The main content area has a breadcrumb trail: Home » Pipeline Safety Community » Regulations » Drug & Alcohol Testing » Inspection. The title is "Drug & Alcohol Inspection Forms". Below the title is a paragraph: "The following forms are provided in Word format and can be typed in or written on once printed." A "Forms" section lists five 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 is a "Drug & Alcohol Testing Menu" with links to Drug & Alcohol Regulations & Reporting, Inspection Forms, Interpretations & Guidance, and Contact Us. On the left is a vertical menu with various site sections like About Us, Calendar, Contact Us, Data & Statistics, Drug & Alcohol Testing, Enforcement, Federal and State Partners, Initiatives, Inspection, Integrity Management Program (IMP), Library, NTSB Safety Recommendations, Online Data Entry, Stakeholder Communications, Regulations, Research & Development, Security, Special Permits & State Waivers, State Programs, Technical Advisory Committees, and Training & Qualifications. At the bottom left is a "Home" button.

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



PHMSA D&A Auditing Program : Comprehensive Audit (Protocol Format)

Anti-Drug Program

Protocol Area A. Anti-Drug Program, Plan and Policies

- [A.01 Anti-Drug Program and Plan Scope](#)
- [A.02 Anti-Drug Policies](#)
- [Table of Contents](#)

A.01 Anti-Drug Program and Plan Scope

Verify that the Anti-Drug Plan meets the requirements of § 199.101.

A.01.a. Written Anti-Drug Plan

Verify that the operator maintains and follows a written Anti-Drug Plan that conforms to Part 199 and Part 40 and that the plan contains the following (§199.101):

1. Methods and procedures for compliance with all the requirements of Part 199, including the employee assistance program;
2. The name and address of each laboratory that analyzes the specimens collected for drug testing;
3. The name and address of the operator's Medical Review Officer, and Substance Abuse Professional; and
4. Procedures for notifying employees of the coverage and provisions of the plan.



A.01.a Inspection Results (Type an X in exactly one cell below)	Inspection Notes
<input type="checkbox"/> Is Identified	
<input type="checkbox"/> Is not Identified (exp h)	
<input type="checkbox"/> NA (exp h)	
<input type="checkbox"/> Is Inspected	



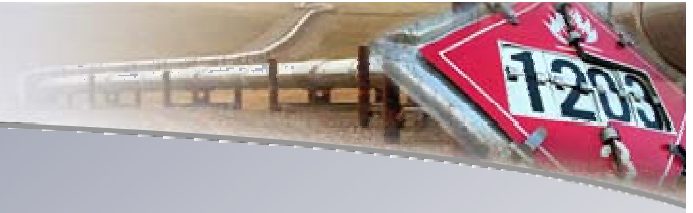
A.01.b. Covered Employees

Verify that the Anti-Drug Program identifies the covered employees (as defined in §199.3) that are required to be tested for the presence of prohibited drugs (§ 199.1).

A.01.b Inspection Results (Type an X in exactly one cell below)	Inspection Notes
<input type="checkbox"/> Is Identified	
<input type="checkbox"/> Is not Identified (exp h)	
<input type="checkbox"/> NA (exp h)	
<input type="checkbox"/> Is Inspected	

A.01.c. Employer Contracted Drug Testing

If an employer contracts drug testing, education and training as part of the Anti-Drug Program (§199.115), verify that there is a process in place and implemented to ensure Part 199 and Part 40 requirements are complied with.



☞ PHMSA D&A Auditing Program :
Comprehensive Audit (Protocol Format)
Substance Abuse Program Protocols

Anti-Drug Program

Protocol Area A. Anti-Drug Program, Plan and Policies

Protocol Area B. Officials, Representatives and Agents

Protocol Area C. Required Drug Tests

Protocol Area D. Drug Testing Laboratories

Protocol Area E. Review of Drug Testing Results

Protocol Area F. Record Keeping and Reporting

Protocol Area G. Employee Assistance Program



PHMSA D&A Auditing Program : Comprehensive Audit (Protocol Format)

Substance Abuse Program Protocols

(Continued)

Alcohol Misuse Prevention Program

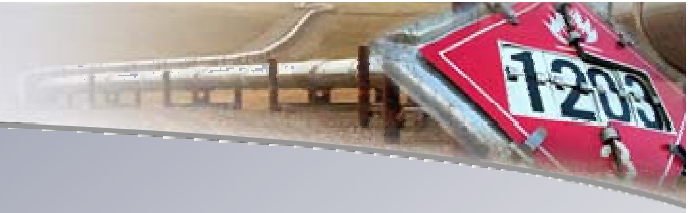
Protocol Area H. Alcohol Misuse Prevention Program, Plan and Policies

Protocol Area I. Officials, Representatives, and Agents

Protocol Area J. Required Alcohol Tests

Protocol Area K. Alcohol Testing Devices

Protocol Area L. Record Keeping and Reporting



PHMSA D&A Auditing Program : **Comprehensive Audit (Protocol Format)**

Substance Abuse Program Protocols

(Continued)

General

Protocol Area M. Reporting of Drug and Alcohol Testing Results

Protocol Area N. Public Interest Exclusions

Collection/Testing Sites

Protocol Area O. Specimen Collection Sites

Protocol Area P. Alcohol Testing Sites



PHMSA Substance Abuse Auditing Program :

Audit Expectations:

What is PHMSA looking for?



PHMSA Substance Abuse Auditing Program :

Key Element:

- **Verification of compliant D&A plans & policies**

What is PHMSA 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 :

Key Element:

- **Post-accident testing requirements**

What is PHMSA 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 :

Key Element:

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

What is PHMSA 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 :

Key Element:

- **Supervisor training for recognizing substance abuse**

What is PHMSA 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 :

Key Element:

- **Employee Assistance Program (EAP) mandates**

What is PHMSA 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**



Questions, Concerns, Comments, or More Information

Thank you all for your attention and interest

Your input and feedback will be greatly appreciated.

Web Sites of Interest:

ODAPC Link: <http://www.dot.gov/ost/dapc/index.html>

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

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



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

Contact Information

**After Meeting Questions, Concerns, Comments, or More Information
Contact**

Stanley T. Kastanas, Director

Office of Substance Abuse Policy, Investigations & Compliance

PHMSA - Pipeline Safety

E-mail: Stanley.Kastanas@DOT.GOV

Telephone: 202-550-0629

DeWitt Burdeaux

Inspector Training & Qualifications

PHMSA - Pipeline Safety

E-mail: [DeWitt.Burdeaux @DOT.GOV](mailto:DeWitt.Burdeaux@DOT.GOV)

Telephone: 405-255-9987

Thank you

Your interest, input and feedback will be greatly appreciated.