



Operator:
Date(s) of Inspection: ---

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

PHMSA

Anti-Drug and Alcohol Misuse Programs

Inspection Protocol Form

**Form No.: 4.1
Revision 1**

January 1, 2020

Using This Inspection Form

Plan or Policy

Pipeline operators and service agents often use the terms “*policy*” and “*plan*” interchangeably, but these terms have different meanings in the PHMSA Drug and Alcohol (D&A) Testing regulations in 49 CFR Part 199.

While the word *policy* is not defined in the regulations, PHMSA's long-term established practice is that if a term is not defined in the code, it should be used in its ordinary sense or in accordance with its commonly understood dictionary meaning [see 35 FR 13250, August 19, 1970].

Accordingly, with regards to D&A testing, *policy* generally means a statement of a pipeline operator’s anti-drug and alcohol misuse program goals. An operator’s policy statement may include both DOT and non-DOT items but the operator must differentiate between the two. Policies are typically published, displayed, and distributed so that they are widely accessible to all covered employees and supervisors. Policies are not plans.

Conversely, the word *plan* is defined in Part 199. The regulations require a pipeline operator to have a written Anti-Drug Plan [§199.101] and a written Alcohol Misuse Plan [§199.202]. PHMSA allows operators to have a single combined written D&A plan. Plans are not policies but may contain policies.

While there are some differences between the required Anti-Drug Plan and Alcohol Misuse Plan, both plans must include “*methods and procedures*” for compliance with Parts 199 and 40. PHMSA’s intent is for the operator’s written D&A plans to supplement the D&A regulations in Parts 199 and 40 with company specific methods and procedures. Plans need not, and should not, regurgitate or paraphrase the D&A regulations.

For example, PHMSA already knows that the selection of employees for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator – it’s in the code! What should be in the written drug plan is the operator’s specific computer-based random number generator (by name) so that the inspector can evaluate whether that specific method works as required.

Process

This inspection form repeatedly asks, “*Does the operator have a process to...?*” A process can be a written method or procure in the operator’s written D&A plans or it can be another acceptable mechanism for achieving the desired result. For example, many operators have a training group that provides all required training to company employees. The operator need not have supervisor training methods and procedures in its D&A plans, if it can demonstrate through records or other means that it has a process to ensure this training is properly completed and recorded.

Purpose

This PHMSA Anti-Drug and Alcohol Misuse Programs Inspection Protocol Form is a guidance document intended for the use of PHMSA pipeline safety inspectors and pipeline safety inspectors working for State Agencies which have assumed safety authority over intrastate gas and pipelines, hazardous liquid pipelines and underground natural gas storage through certifications and agreements with PHMSA under 49 U.S.C. §§ 60105 – 60106. These State Agencies are commonly referred to as PHMSA State Partners. This form is U.S. Government property used by the PHMSA and State Partner pipeline safety inspectors assessing a pipeline operator’s compliance with the D&A testing regulations in 49 CFR Part 199.

This form is not a regulation and creates no new legal obligations. The regulation is controlling and nothing in this form is intended to diminish or otherwise affect the authority of PHMSA or a State Partner from carrying out their statutory, regulatory, or other official functions or to commit PHMSA or a State Partner to taking any action that is subject to its discretion. Nothing in this document is intended to and does not create any legal or equitable right or benefit, substantive or procedural, enforceable at law by any person or organization against PHMSA, its personnel, State Agencies or officers carrying out programs authorized under Federal law.

Decisions about specific investigations and enforcement cases are made according to the specific facts and circumstances at hand. Investigations and compliance determinations often require careful legal and technical analysis of complicated issues. Although this guidance document serves as a reference for the staff responsible for investigations and enforcement, no set of procedures or policies can replace the need for active and ongoing consultation with supervisors, colleagues, and the Office of Chief Counsel in enforcement matters.

Lead Inspector			
Name		Email	
Title		Phone	
Agency		Cell	

Government Representatives Participating in Inspection			
Name		Email	
Title		Phone	
Agency		Cell	
Name		Email	
Title		Phone	
Agency		Cell	
Name		Email	
Title		Phone	
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Title		Phone	
Agency		Cell	

Company Representatives Participating in Inspection			
Name		Email	
Title		Phone	
Company		Cell	
Name		Email	
Title		Phone	
Company		Cell	
Name		Email	
Title		Phone	
Company		Cell	
Name		Email	
Title		Phone	
Company		Cell	

Operator Profile	
Company Name	
Doing Business As (DBA) (if applicable)	
Operator Identification Number (OPID)	
List all other OPIDs covered under this Substance Abuse Program (if any)	
Mailing Address	
Official Address (if different)	

Regulated Facility Type (check-off all that apply)			
<input type="checkbox"/>	Gas Transmission Pipeline	<input type="checkbox"/>	Hazardous Liquid Pipeline
<input type="checkbox"/>	Gas Distribution Pipeline	<input type="checkbox"/>	Carbon Dioxide Pipeline
<input type="checkbox"/>	Gas Gathering Pipeline	<input type="checkbox"/>	Liquefied Natural Gas (LNG) Facility

DER or Substance Abuse Program Manager			
Name		Email	
Title		Phone	
Mailing Address		Cell	

Consortium or Third-Party Administrator (C/TPA)			
Company		Web or Email	
Mailing Address		Phone	
C/TPA Point of Contact			
Name		Email	
Mailing Address		Phone	
		Cell	

Written Anti-Drug Plan and Alcohol Misuse Plan

PHMSA regulated pipeline operators must have a written Anti-Drug Plan and a written Alcohol Misuse Plan to conduct drug and alcohol (D&A) tests in accordance with PHMSA’s Drug & Alcohol Testing regulations in Part 199 and the DOT’s Procedures for Transportation Workplace Drug and Alcohol Testing programs in Part 40. However,

PHMSA allows operators to have one combined written D&A Plan.

	The operator has a written PHMSA Anti-Drug Plan [§199.101]
	The operator has a written PHMSA Alcohol Misuse Plan [§199.202]
	The operator has a combined written PHMSA Anti-Drug and Alcohol Misuse Plan
<p>Note: Operators may have a written plan that covers more than one DOT agency. If so, the plan must be inspected for all required PHMSA items while non-PHMSA items should not be inspected by PHMSA inspectors.</p>	

Documents Reviewed During Inspection

Document Number	Rev	Date	Document Title

Notes:

Table of Contents

Protocol Area A – General Drug & Alcohol (D&A) Program Requirements.....	1
A-1: Designated Employer Representative (DER).....	1
A-2: Employer Responsibilities for Officials, Representatives, and Service Agents.....	1
A-3: Qualification Requirements.....	1
A-4: Service Agent Limitations.....	2
A-5: Supervisory Personnel Training.....	2
A-6: Covered Employees.....	3
A-7: Employee DOT D&A Testing Record Checks.....	3
A-8: DOT vs. Non-DOT Tests.....	4
A-9: Contractor Anti-Drug and Alcohol Misuse Prevention Programs.....	4
Protocol Area B – Anti-Drug Program.....	5
B-1: Written Anti-Drug Plan.....	5
B-2: Prohibited Drugs.....	5
B-3a: Pre-Employment Drug Testing.....	6
B-3b: Post-Accident Drug Testing.....	6
B-3c: Random Drug Testing.....	7
B-3e: Return-to-Duty Drug Testing.....	7
B-3f: Follow-Up Drug Testing.....	8
B-4: Laboratory Drug Test Result Reports.....	8
B-5: MRO Review of Drug Testing Results.....	8
B-6: MRO Drug Test Reports to the Operator.....	9
B-7: Drug Regulation Violations.....	9
B-8: Employee Assistance Program (EAP).....	10
Protocol Area C – Alcohol Misuse Prevention program.....	11
C-1: Written Alcohol Misuse Plan.....	11
C-2: Alcohol Misuse Program Educational Materials.....	11
C-3: Alcohol Misuse Program Educational Materials Content.....	11
C-4: Alcohol-Related Prohibited Conduct.....	12
C-5: Available Resources for Employees.....	13
C-6: Alcohol Concentration of 0.02 or Greater.....	13
C-7: Alcohol Screening Test Devices.....	14
C-8: Alcohol Confirmation Test Devices.....	14
C-9a: Pre-Employment Alcohol Testing (not required).....	15
C-9b: Post-Accident Alcohol Testing.....	15

C-9c: Reasonable Suspicion Alcohol Testing.....	16
C-9d: Return-to-Duty Process and Alcohol Testing.....	17
C-9e: Follow-Up Process & Alcohol Testing.....	18
C-10: BAT Alcohol Test Reports to the Operator.....	18
Protocol Area D – Drug and Alcohol Test Reporting.....	19
D: Reporting of Drug and Alcohol Test Results to PHMSA.....	19
Protocol Area E – Drug and Alcohol Program Records.....	20
E-1: Drug and Alcohol Program Recordkeeping.....	20
E-2: Required Drug Test Records.....	20
E-3: Required Alcohol Test Records.....	21

Protocol Area A – General Drug & Alcohol (D&A) Program Requirements

A-1: Designated Employer Representative (DER)					
	Has the operator appointed a Designated Employer Representative (DER)? [§40.3, §40.15(d), §40.355(k)]				
	Verify that a service agent is not used to fulfill the function of a DER. [§40.3, §40.15(d), §40.355(k)]				
				No Issue Identified	Potential Issue Identified
Notes:					

A-2: Employer Responsibilities for Officials, Representatives, and Service Agents		
	Does the operator’s D&A program have a <u>process</u> to ensure the operator remains responsible for all actions of its officials, representatives, and service agents, including a Consortium/Third Party Administrator (C/TPA), to ensure compliance when these officials, representatives, and service agents carry out the requirements of Parts 199 and 40? [§40.11(b), §40.15(c), §40.341]	
	No Issue Identified	Potential Issue Identified
Notes:		

A-3: Qualification Requirements	
Verify the operator’s D&A program positions and/or service agents meet the applicable qualification requirements of Part 40 and Part 199.	
	Medical Review Officer (MRO) [§40.121 and §199.109(b)]
	Urine Specimen Collector [§40.33]
	Substance Abuse Professional (SAP) [§40.281]
	Laboratories certified by the Department of Health and Human Services (HHS) National Laboratory Certification program (NLCP) [§40.81(a) and §199.107(a)]
	Screening Test Technician [§40.213]
	Breath Alcohol Technician [§40.213]

	No Issue Identified		Potential Issue Identified
Notes:			

A-4: Service Agent Limitations

Verify the operator’s D&A program ensures its service agents			
			Do not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the DOT D&A testing process (including, but not limited to, collections, laboratory testing, MRO, and SAP services). [§40.355(a)]
			Do not act as an intermediary in the transmission of laboratory drug test results direct from the laboratory to the MRO, operator, or to another service agent, or in the transmission of alcohol test results of 0.02 or higher direct from the STT or BAT to the DER. [§40.355(b-d)]
			Do not make decisions to test an employee based upon reasonable suspicion/cause, post-accident, return-to-duty, and follow-up determination criteria. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. [§40.355(g)] (see §40.355(h) for exceptions)
			Do not make determinations that an employee has refused a drug or alcohol test. While a service agent may provide advice and information, these are duties the operator cannot delegate to a C/TPA. [§40.355(i)] (see §40.355(j) for exceptions)
			Do not impose conditions or requirements on the operator, such as the DOT D&A testing of non-covered employees, that DOT regulations do not authorize. [§40.355(m)]
			Do not intentionally delay the transmission of drug or alcohol testing-related documents concerning actions the service agent performed because of a payment dispute or other reasons. [§40.355(n)]

	No Issue Identified		Potential Issue Identified
Notes:			

A-5: Supervisory Personnel Training

			Does the operator require a 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use under the EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause? [§199.113(c)]
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Does the operator require a 60-minute period of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse for supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing? [§199.241]	
No Issue Identified	Potential Issue Identified
Notes:	

A-6: Covered Employees	
Does the operator have a <u>process</u> to ensure the operator properly identifies the covered employees who are required to be DOT tested for the presence of prohibited drugs and alcohol? [§199.3]	
Verify the operator does <u>not</u> conduct DOT tests for the presence of prohibited drugs and/or alcohol on any individual who is not a covered employee. [§199.1, §199.3 and §40.347(b)(2)]	
No Issue Identified	Potential Issue Identified
Notes:	

A-7: Employee DOT D&A Testing Record Checks	
For an employee seeking to perform covered functions for the first time (i.e., a new hire or an employee transferring into a safety-sensitive position)	
Does the operator obtain the employee's written consent prior to requesting DOT D&A testing information from prior DOT regulated employers? [§40.25(a), §40.27, §40.321(b), §40.351(d)] Note: a wet ink signature and separate request is required for each prior employer.	
Does the operator request DOT D&A testing information from each DOT regulated employer who has employed the employee during any period during the two years before the date of the employee's application or transfer? [§40.25(b)]	
Verify the operator does not permit an employee to perform a covered function after 30 days from the date on which the employee first performed a covered function, unless the operator has obtained, or made and documented, a good faith effort to obtain the DOT D&A testing information from prior DOT regulated employers. [§40.25(d)]	

Verify the operator does not permit an employee who has violated any DOT agency D&A regulation to perform a covered function unless the operator also obtains information that the employee subsequently complied with the return-to-duty requirements in Part 40, Subpart O and PHMSA’s drug and alcohol regulations. [§40.25(e)]	
No Issue Identified	Potential Issue Identified
Notes:	

A-8: DOT vs. Non-DOT Tests	
If a pipeline operator has a non-DOT drug and alcohol testing program	
Does the operator have a <u>process</u> to ensure that all DOT D&A tests are completely separate from all non-DOT D&A tests in all respects? [§40.13]	
Does the operator have a <u>process</u> to ensure that all DOT D&A tests take priority and must be conducted and completed before a non-DOT test is begun? [§40.13(b)]	
No Issue Identified	Potential Issue Identified
Notes:	

A-9: Contractor Anti-Drug and Alcohol Misuse Prevention Programs	
If a pipeline operator allows contractors who perform covered functions on the operator’s regulated pipeline or LNG facility to conduct their own D&A Programs	
Does the operator have a <u>process</u> to oversee contractors to ensure they comply with Parts 199 and 40? [§199.115 & §199.245]	
Do the contractors allow access to property and records by the operator, PHMSA, and a representative of a state agency (if applicable) to allow for the monitoring the operator's compliance with Part 199? [§199.115(b)].	
No Issue Identified	Potential Issue Identified
Notes:	

Protocol Area B – Anti-Drug Program

B-1: Written Anti-Drug Plan	
Does the operator maintain and follow a written Anti-Drug Plan that conforms to the requirements of Part 199 and Part 40? [§199.101(a)]	
Ensure the Anti-Drug Plan contains, at a minimum, the following:	
Methods and procedures for compliance with all the requirements of Part 199, including the Employee Assistance Program (EAP) [§199.101(a)(1)]	
The name and address of each laboratory that analyzes the specimens collected for drug testing [§199.101(a)(2)]	
The name and address of the operator’s Medical Review Officer (MRO), and Substance Abuse Professional (SAP) [§199.101(a)(3)]	
Procedures for notifying employees of the coverage and provisions of the plan [§199.101(a)(4)]	
No Issue Identified	Potential Issue Identified
Notes:	

B-2: Prohibited Drugs	
Does the operator conduct DOT drug tests only for the “prohibited drugs” specified in Part 40? [§§199.1-5, §199.105, and §§40.1-3]	
Marijuana	
Cocaine	
Amphetamines	
Phencyclidine (PCP)	
Opioids	
No Issue Identified	Potential Issue Identified
Notes:	

B-3a: Pre-Employment Drug Testing

Does the operator have a process to ensure it does not hire or contract for the use of any person as a covered employee (e.g. new hire or transferred employee) to perform a covered function unless that person first passes a DOT drug test or is covered by an anti-drug program that conforms to Part 199? [§199.105(a)]

Note: The anti-drug programs of the other DOT agencies and the USCG meet the requirements for an anti-drug program that conforms to Part 199.

Does the operator have a process to ensure that a covered employee removed from the random drug test pool (for any length of time) passes a pre-employment DOT drug test before being placed back into the random drug test pool? [§199.105(a)]

No Issue Identified

Potential Issue Identified

Notes:

B-3b: Post-Accident Drug Testing

Does the operator have a process to ensure it completes a DOT post-accident drug test as soon as possible but no later than 32 hours after an accident of each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident? [§199.105(b)(1)]

If the operator did not administer a DOT drug test within the 32 hours following an accident, does the operator have a process to ensure it ceases attempts to administer a drug test and states in the record the reasons for not promptly administering the test? [§199.105(b)(2)]

If the operator decides not to conduct a post-accident drug test of a covered employee, does the operator have a process to ensure it makes that decision based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident? [§199.105(b)(1)]

If the operator decided not to conduct a post-accident drug test of a covered employee, does the operator have a process to ensure that it documents the decision and keeps that record for at least 3 years? §199.117(a)(5)]

No Issue Identified

Potential Issue Identified

Notes:

B-3c: Random Drug Testing

Does the operator use a scientifically valid selection method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers? [§199.105(c)(5)]

Does the operator's selection method ensure that each covered employee has an equal chance of being selected each time selections are made? [§199.105(c)(5)]

Does the operator have a process to ensure it selects a sufficient number of covered employees for random drug testing during each calendar year to equal an annual rate not less than the required minimum annual percentage rate? [§199.105(c)(6)].

Does the operator have a process to ensure that random drug tests are unannounced and that the dates for administering the tests are spread reasonably throughout the calendar year? [§199.105(c)(7)]

Note: Do not confuse random selection dates with test dates. For example, an operator may select once each calendar quarter (i.e. 4 days a year) but the drug tests themselves must be reasonable spread throughout the calendar year.

No Issue Identified

Potential Issue Identified

Notes:

B-3e: Return-to-Duty Drug Testing

Does the operator have a process to ensure that a covered employee who refuses to take a drug test, or has a positive drug test, does not return to duty in any covered function until the covered employee completes a SAP evaluation, referral, and education/treatment process? [§199.105(e) & Part 40, Subpart O]

Does the operator have a process to ensure that a covered employee who refuses to take or has a positive drug test does not return to duty in any covered function until the covered employee successfully completes a return-to-duty drug test? [§40.285(a), §40.289(b), §40.305(a) and §199.105(e)].

Does the operator have a process to ensure that all return-to-duty drug testing is performed under direct observation? [§40.67(b)]

No Issue Identified

Potential Issue Identified

Notes:

B-3f: Follow-Up Drug Testing

Does the operator have a process to ensure that a SAP establishes a follow-up testing plan for a covered employee who refused to take a drug test, or had a positive drug test, before allowing the covered employee to return to duty? [§40.307, §40.309, and §199.105(f)].

Does the operator have a process to ensure that follow-up testing is performed on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months and that at least six tests must be conducted within the first 12 months following the covered employee's return to duty? [§40.307, §40.309, and §199.105(f)].

Does the operator have a process to ensure that all follow-up drug testing is performed under direct observation? [§40.67(b)]

No Issue Identified

Potential Issue Identified

Notes:

B-4: Laboratory Drug Test Result Reports

Does the laboratory report drug test results directly, and only, to the MRO at his or her place of business? Lab test results must not be reported to or through the DER or a service agent such as a C/TPA. [§40.97(b)]

Does the laboratory transmit an aggregate statistical summary, by operator, of the drug test data listed in Part 40, Appendix B to the operator on a semi-annual basis?

No Issue Identified

Potential Issue Identified

Notes:

B-5: MRO Review of Drug Testing Results

Does the operator have a process to ensure its MRO provides quality assurance reviews of the drug testing process, including ensuring the review of the Custody and Control Form (CCF) on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be canceled? [§199.109 and §40.123(b)].

Does the operator have a process to ensure its MRO performs the review functions required by §40.127 for negative drug test results received from a laboratory, prior to verifying the result and reporting it to the operator's Designated Employer Representative (DER)? [§199.109 and §40.163].

	Does the operator have a <u>process</u> to ensure its MRO performs the review functions required by §40.129 for confirmed positive, adulterated, substituted, or invalid drug test results received from a laboratory, prior to verifying the result and reporting it to the DER? [§199.109 and §40.163].	
	Does the operator have a <u>process</u> to ensure that when its MRO has verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, the MRO notifies the employee of his or her right to have the split specimen tested and how to request the test? [§199.109 and §40.153]	
	No Issue Identified	Potential Issue Identified
Notes:		

B-6: MRO Drug Test Reports to the Operator		
	Does the operator have a <u>process</u> to ensure its MRO reports all drug test results to the DER in accordance with the requirements in §40.163, §40.165, §40.167, and §199.109(d)? These requirements include: <ul style="list-style-type: none"> – reporting all drug test results to the DER, except in the circumstances provided for in §40.345, when a C/TPA may act as an intermediary [§40.165(a)]; – reporting the results in a confidential manner [§40.167(a)]; and, – reporting the results within the required time constraints. [§40.167(b) and (c)] 	
	Does the operator have a <u>process</u> to ensure its MRO reports all drug test results to the DER unless the operator elects to receive drug test results through a C/TPA, acting as an intermediary, in which case the MRO reports the drug test results through the designated C/TPA? [§199.109(d), §40.165 & §40.345]	
	No Issue Identified	Potential Issue Identified
Notes:		

B-7: Drug Regulation Violations	
	Verify that the operator does not stand down an employee based on laboratory tests results before the Medical Review Officer (MRO) completes the drug test verification process unless an approved waiver has been granted. [§199.7 and §40.21]

	Does the operator have a <u>process</u> to ensure that a “covered employee” who violates a PHMSA/DOT drug regulation is removed from performing “covered functions?” [§199.103 and §40.23]		
	Does the operator have a <u>process</u> to ensure it provides a listing of Substance Abuse Professionals (SAPs) that are readily available to an employee who violates a PHMSA/DOT drug regulation? [§40.287]		
Note: A verified positive DOT drug test result or a refusal to test (including adulterating or substituting a urine specimen) constitutes a violation of a PHMSA/DOT drug regulation. [§40.285(b) and §199.103(a)]			
	No Issue Identified		Potential Issue Identified
Notes:			

B-8: Employee Assistance Program (EAP)			
	Does the operator have an EAP for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause? The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. [§199.113(a)].		
	Does the education under the EAP include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the operator's policy regarding the use of prohibited drugs? [§199.113(b)]		
	No Issue Identified		Potential Issue Identified
Notes:			

Protocol Area C – Alcohol Misuse Prevention program

C-1: Written Alcohol Misuse Plan							
	Does the operator maintain and follow a written Alcohol Misuse Plan that conforms to the requirements of Part 199 and Part 40 and which contains methods and procedures for compliance with required alcohol testing, recordkeeping, reporting, education and training elements? [§199.202]						
No Issue Identified				Potential Issue Identified			
Notes:							

C-2: Alcohol Misuse Program Educational Materials							
	Does the operator have a <u>process</u> to provide educational materials that explain alcohol misuse requirements and the operator’s policies and procedures with respect to meeting those requirements? [§199.239(a)]						
	Does the operator provide a copy of these materials to each covered employee prior to the start of alcohol testing and to each person subsequently hired or transferred into a covered position? [§199.239(a)(1)]						
	Does the operator provide written notice to representatives of employee organizations of the availability of this information? [§199.239(a)(2)]						
No Issue Identified				Potential Issue Identified			
Notes:							

C-3: Alcohol Misuse Program Educational Materials Content	
Does the operator ensure educational materials are made available to covered employees and that the materials include detailed discussion of at least the following? [§199.239(b)]	
	The identity of the person designated by the operator to answer covered employee questions about the materials.
	The categories of employees who are subject to the alcohol testing regulations in Part 199, Subpart C.

	Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with Part 199, Subpart C.
	Specific information concerning covered employee conduct that is prohibited by Part 199, Subpart C.
	The circumstances under which a covered employee will be tested for alcohol under Part 199, Subpart C.
	The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.
	The requirement that a covered employee submit to alcohol tests administered in accordance with this Part 199, Subpart C.
	An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.
	The consequences for covered employees found to have violated the prohibitions under Part 199, Subpart C, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243.
	The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.
	Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

No Issue Identified	Potential Issue Identified
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Notes:

C-4: Alcohol-Related Prohibited Conduct	
Does the operator have a <u>process</u> to ensure that a covered employee is not permitted to perform covered functions if the employee has engaged in conduct prohibited by §§199.215 through 199.223 as shown below or an alcohol misuse rule of another DOT agency? [§199.233]	
Prohibited conduct includes:	
	Alcohol Concentration - having an alcohol concentration of 0.04 or greater while on duty. [§199.215, §40.23(c) and §40.285]
	On-Duty Use - using alcohol while performing covered functions. [§199.217]

	Pre-Duty Use - using alcohol within 4 hours prior to performing covered functions, or, if an employee is called to duty to respond to an emergency, within the time period after the employee has been notified to report for duty. [§199.219]
	Use Following an Accident - a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident, is prohibited from using alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under §199.225(a), or the operator has determined that the employee's performance could not have contributed to the accident. [§199.221]
	Refusal to Submit to a Required Alcohol Test - the refusal of a covered employee to submit to a post-accident alcohol test required under §199.225(a), a reasonable suspicion alcohol test required under §199.225(b), or a follow-up alcohol test required under §199.225(d). [§199.223 and §40.285]

No Issue Identified	Potential Issue Identified
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Notes:

C-5: Available Resources for Employees

	Does the operator have a <u>process</u> to ensure that each covered employee who has engaged in conduct prohibited by §§199.215 through 199.223 shall be advised of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol? This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. [§40.285(b) and §199.243(a)]
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No Issue Identified	Potential Issue Identified
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Notes:

C-6: Alcohol Concentration of 0.02 or Greater

	Does the operator have a <u>process</u> to ensure that a covered employee is prohibited from performing or continuing to perform covered functions when found to have an alcohol concentration of 0.02 or greater but less than 0.04, until the employee's alcohol concentration measures less than 0.02 in accordance with a test administered under §199.225(e) or the start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test? [§40.23(c) and §199.237(a)]
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	No Issue Identified		Potential Issue Identified
Notes:			

C-7: Alcohol Screening Test Devices

	Does the operator use only Alcohol Screening Devices (ASDs) listed on ODAPC's web page for “Approved Screening Devices to Measure Alcohol in Bodily Fluids” or Evidential Breath Testing Devices (EBTs) listed on ODAPC's web page for “Approved Evidential Breath Measurement Devices” to conduct alcohol screening tests? [§40.229]
	Does the operator use ASDs only for screening tests for alcohol and must not be used for alcohol confirmation tests? [§40.229] Note: an ASD can only be used for DOT alcohol screening tests if there are instructions for its use in Part 40.
	With respect to breath ASDs, verify the operator follows the device’s use and care requirements listed in §40.233. [§40.235]

	No Issue Identified		Potential Issue Identified
Notes:			

C-8: Alcohol Confirmation Test Devices

	Does the operator use only Evidential Breath Testing Devices (EBTs) listed on ODAPC's web page for “Approved Evidential Breath Measurement Devices” to conduct alcohol confirmation tests? [§40.231]
	Does the operator ensure that the inspection, maintenance, and calibration of the EBTs are performed by its manufacturer or a maintenance representative certified either by the manufacturer or by a state health agency or other appropriate state agency? [§40.233]
	Does the operator perform external calibration checks at the intervals and using the methods specified in the manufacturer’s instructions for any EBT used for DOT required alcohol confirmation testing? [§40.233]

	No Issue Identified		Potential Issue Identified
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Notes:

C-9a: Pre-Employment Alcohol Testing (not required)

If the operator chooses to conduct pre-employment alcohol testing:

Does the operator have a process to ensure it conducts a pre-employment alcohol test before the first performance of a covered function by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of covered functions)? [§199.209(b)(1)]

Does the operator have a process to ensure it treats all covered employees the same with regards to pre-employment alcohol testing (i.e. must not test some covered employees and not others)? [§199.209(b)(2)]

Does the operator have a process to ensure it conducts the pre-employment test only after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test? [§199.209(b)(3)]

No Issue Identified

Potential Issue Identified

Notes:

C-9b: Post-Accident Alcohol Testing

Does the operator have a process to ensure it completes a DOT post-accident alcohol test as soon as practicable following an accident of each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident? [§199.225(a)(1)]

If the operator did not administer a DOT alcohol test within 2 hours following an accident, does the operator have a process to ensure it prepares and maintains on file a record stating the reasons the test was not promptly administered? [§199.225(a)(2)(i)]

If the operator does not administer a DOT alcohol test within 8 hours following an accident, does the operator have a process to ensure it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered? [§199.225(a)(2)(i)]

If the operator decides not to conduct a post-accident alcohol test of a covered employee, does the operator have a process to ensure it makes that decision based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident? [§199.225(a)(1)]

If the operator decided not to conduct a post-accident drug test of a covered employee, does the operator have a <u>process</u> to ensure it documents the decision and keeps that record for at least 3 years? §199.227(b)(4)]	
No Issue Identified	Potential Issue Identified
Notes:	

C-9c: Reasonable Suspicion Alcohol Testing	
	Does the operator have a <u>process</u> to ensure that DOT alcohol tests are performed when there is reasonable suspicion to believe the employee has violated the alcohol use prohibitions in Part 199, Subpart C? [§199.225(b)].
	Does the operator have a <u>process</u> to ensure the operator's determination that reasonable suspicion exists is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee and that the observations must be made during, just preceding, or just after the period of the work day the employee is required to be in compliance with Part 199, Subpart C? [§199.225(b)(2)&(3)].
	Does the operator have a <u>process</u> to ensure that a covered employee is directed by the operator to undergo reasonable suspicion testing for alcohol only while the employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing covered functions? [§199.225(b)(3)].
	If the operator does not administer a DOT alcohol test within 2 hours following the determination of reasonable suspicion, does the operator have a <u>process</u> to ensure that it prepares and maintains on file a record stating the reasons the test was not promptly administered? [§199.225(b)(4)(i)]
	If the operator does not administer a DOT alcohol test within 8 hours following the determination of reasonable suspicion, does the operator have a <u>process</u> to ensure that it ceases attempts to administer the test and prepares and maintains on file a record stating the reasons the test was not administered? [§199.225(b)(4)(i)]
	Regardless of whether or not a reasonable suspicion alcohol test is conducted, verify the operator does not permit a covered employee to report for duty or remain on duty performing covered functions while the employee is under the influence of, or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse. [§199.225(b)(4)(iii)]

Regardless of whether or not a reasonable suspicion alcohol test is conducted, verify the operator does not permit a covered employee to perform or continue to perform a covered function while the employee is under the influence of, or impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse until

- an alcohol test is administered and the employee's alcohol concentration measures less than 0.02. [§199.225(b)(4)(iii)(A)]

OR

- the start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe the employee has violated the alcohol misuse prohibitions in Part 199, Subpart C. [§199.225(b)(4)(iii)(B)]

Does the operator have a process to ensure it does not take any action under Part 199, Subpart C, against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test? [§199.225(b)(4)(iv)]

Note: This does not prohibit an operator from taking any action under its own authority and otherwise consistent with the law.

	No Issue Identified		Potential Issue Identified
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Notes:

C-9d: Return-to-Duty Process and Alcohol Testing

Does the operator have a process to ensure that a covered employee who engages in conduct prohibited by §199.215 through §199.223 may not return to duty to perform a covered function until the employee has complied with the SAP's evaluation, referral, and education/treatment process? [§40.285(a), §40.305(a)]

Does the operator have a process to ensure that a covered employee who engages in conduct prohibited by §199.215 through §199.223 does not return to duty to perform a covered function until the employee undergoes a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02? [§40.305(a), §199.225(c), and §199.243(c)]

Does the operator have a process to ensure that all return-to-duty testing is performed under direct observation? [§40.67(b)]

	No Issue Identified		Potential Issue Identified
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Notes:

C-9e: Follow-Up Process & Alcohol Testing

Does the operator have a process to ensure the SAP has established a written follow-up testing plan after the SAP determined that the employee successfully complied with the SAP's return-to-duty recommendations for education and/or treatment and that a copy of the follow-up testing plan is presented directly to the DER? [§40.307(a)&(b)]

Does the operator have a process to ensure that follow-up testing is conducted on an unannounced basis, at a frequency established by the SAP, for a period of not more than 60 months? At least six tests must be conducted within the first 12 months following the covered employee's return to duty. [§40.307, §40.309, §199.225(d) and §199.243(c)(2)(ii)]

Does the operator have a process to ensure that follow-up testing is conducted when the covered employee is performing covered functions; just before the employee is to perform covered functions; or just after the employee has ceased performing such functions? [§199.225(d)]

No Issue Identified

Potential Issue Identified

Notes:

C-10: BAT Alcohol Test Reports to the Operator

Does the BAT or STT transmit alcohol screening test results to the DER in a confidential manner for concentrations of less than 0.02 using the DOT procedures described in §40.247 (refer to the code for specific requirements)? [§40.247]

Does the BAT immediately transmit alcohol confirmation test results directly to the DER in a confidential manner using the DOT procedures described in §40.255 (refer to the code for specific requirements)? [§40.247]

No Issue Identified

Potential Issue Identified

Notes:

Protocol Area D – Drug and Alcohol Test Reporting

D: Reporting of Drug and Alcohol Test Results to PHMSA			
	<p>If the operator has more than 50 covered employees, verify that it submits an annual MIS report of its anti-drug and alcohol testing results in accordance with the form and instructions located in Part 40, Appendix H, not later than March 15 of each year for the prior calendar year. [§40.26, §199.119(a) and §199.229(a)]</p>		
	<p>If the operator has 50 or fewer covered employees (includes contractor employees), verify that it submits an annual MIS report of its anti-drug and alcohol testing results in accordance with the form and instructions located in Part 40, Appendix H, not later than March 15 of each year for the prior calendar year when requested to so by PHMSA notice. [§40.26, §199.119(a) and §199.229(a)]</p>		
	<p>Does the operator have a <u>process</u> to ensure it identifies all contractors who performed covered functions for the operator in a given calendar year; and, if required by either mandated annual or PHMSA written request, submitted a MIS report for each of these contractors? [§40.26, §199.119(a) and §199.229(a)]</p>		
	<p>If a service agent (e.g., C/TPA) prepares the MIS report on behalf of an operator, verify that each report is certified by the operator's anti-drug manager/alcohol misuse prevention manager or designated representative for accuracy and completeness. [§199.119(f) and §199.229(d)]</p>		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">No Issue Identified</td> <td style="width: 50%; text-align: center;">Potential Issue Identified</td> </tr> </table>	No Issue Identified	Potential Issue Identified
No Issue Identified	Potential Issue Identified		
<p>Notes:</p>			

Protocol Area E – Drug and Alcohol Program Records

E-1: Drug and Alcohol Program Recordkeeping	
	Does the operator maintain the required drug and alcohol program records in a secure location with controlled access? [§199.227(a) and §40.333(c)]
	If the operator allows a service agent to maintain its required drug and alcohol program records, verify that the operator can produce these records at its principal place of business upon request by PHMSA or by a representative of a state agency. [§199.117(b) and §40.333(d)]
	If the operator stores records electronically, ensure the records are easily accessible, legible, formatted and stored in an organized manner. [§40.333(e)] Note: if electronic records do not meet these criteria, the operator must convert them to printed documentation in a rapid and readily auditable manner, at the request of PHMSA or by a representative of a state agency. [§40.333(e)]
	Verify that upon a signed written request from an employee that the operator provides to the employee all records of drug and alcohol use, testing results, and rehabilitation. [§199.117(b) and §199.231(b)].
No Issue Identified	Potential Issue Identified
Notes:	

E-2: Required Drug Test Records	
Retention period - Five years	
	Records of verified positive drug test results. [§40.333(a)(1) and §199.117(a)(2)]
	Documentation of refusals to take required drug tests (including substituted or adulterated drug test results). [§40.333(a)(1)]
	SAP reports and records that demonstrate compliance with SAP recommendations. [§40.333(a)(1) and §199.117(a)(2)]
	All follow-up drug test results and schedules for follow-up drug tests. [§40.333(a)(1)]
	MIS annual report data – regardless of whether or not an annual MIS report was submitted. [§199.117(a)(2)]
Retention period - Three years	
	Information obtained from previous operators under §40.25 concerning drug test results of employees. [§40.333(a)(2)]

	Records that demonstrate the collection process conforms to Part 199. [§199.117(a)(1)]	
	Records confirming that supervisors and employees have been trained as required by Part 199. [§199.117(a)(4)]	
	Records of decisions not to administer post-accident employee drug tests. [§199.117(a)(5)]	
Retention period - One year		
	Records of negative and cancelled drug test results. [§40.333(a)(4) and §199.117(a)(3)]	
	No Issue Identified	Potential Issue Identified
Notes:		

E-3: Required Alcohol Test Records

Retention period - Five years		
	Records of alcohol test results indicating an alcohol concentration of 0.02 or greater. [§40.333(a)(1) and §199.227(b)(1)]	
	Documentation of refusals to take required alcohol tests. [§40.333(a)(1) and §199.227(b)(1)]	
	SAP reports, employee evaluations and referrals. [§40.333(a)(1) and §199.227(b)(1)]	
	All follow-up alcohol test results and schedules for follow-up alcohol tests. [§40.333(a)(1)]	
	MIS annual report data – regardless of whether or not an annual MIS report was submitted. [§199.227(b)(1)]	
	Calibration Documentation – supersedes the DOT two-year requirement found in §40.333(a)(3). [§199.227(b)(1)]	
Retention period - Three years		
	Information obtained from previous operators under §40.25 concerning alcohol test results of employees. [§40.333(a)(2)]	
	Records of decisions not to administer post-accident employee alcohol tests. [§199.227(b)(4)]	

Retention period - Two years		
	Records confirming that supervisors and employees have been trained as required by Part 199. [§199.227(b)(2)]	
	Records related to the collection process (except calibration of EBT devices). [§199.227(b)(2)]	
Retention period - One year		
	Records of all test results with a concentration below 0.02 as defined in Part 40. [§40.333(a)(4) and §199.227(b)(3)]	
	No Issue Identified	Potential Issue Identified
Notes:		