## PHMSA Drug & Alcohol Testing Regulations

A review for operators in the oil & gas industry-2025

What is the most important position within your companies Drug & Alcohol program?

#### Designated Employer Representative (DER)

An employee that takes action to remove an employee from safety-sensitive duties and to make decisions in the testing and evaluation processes. They also receive test results and other communications on behalf of the employer.

What's the purpose of a drug and alcohol program?

Prevent accidents and injuries resulting from the misuse of alcohol or drug use by employees.



## Who does the PHMSA regulations apply to?

#### Businesses, employees, and contract employees who perform:

Operations (control the movement or storage of gas, LNG, hazardous liquids, or carbon dioxide); or

On pipeline that transports natural gas, other gas, or hazardous liquids.

 Maintenance (preserve a pipeline or LNG facility for future use); or

or

Emergency Response (steps taken to identify emergencies, protect people, and return a pipeline or LNG facility to normal operation)

On a liquefied natural gas facility

**Job Functions** 

Where

## 5 steps of a DOT drug test....

An employee is notified to take a drug screen and immediately reports to the collection site.

Collection

• 2

An employee is notified to take a drug screen and immediately reports to the collection site.

The sample is collected by a trained individual in the DOT urine collection procedures and documented using a Federal Custody and Control form (CCF).

Collection • 2

Testing • 3

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The sample is tested by an HHS certified laboratory under the National Laboratory Certification Program (NCLP).

Collection • 2

Testing • 3

Review • 4

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Results are reviewed by a Medical Review Officer (MRO) and (if applicable), are evaluated for medical explanations with the employees.

Collection • 2

Testing • 3

Review • 4

Reporting • 5

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The final results are reported and received by the employer.

#### Who's an MRO?

#### Medical Review Officer (MRO)

-A licensed physician responsible for receiving and reviewing laboratory drug test results and evaluating medical explanations for certain drug test results.



4 Steps of a DOT alcohol test.....

An employee is notified to take an alcohol test and immediately reports to the collection site.

Testing

An employee is notified to take an alcohol test and immediately reports to the collection site.

The employee is tested by a trained technician in the DOT alcohol testing procedures and trained on the Alcohol Saliva Device(ASD) or Evidential Breath Testing(EBT) machine being used.

Testing

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The results are printed on a Federal Alcohol Testing Form(ATF).

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Documentation • =

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Reporting • <u>Z</u>

The final results are reported to the employer by the ASD or EBT technician. Notification **Testing** Reporting

An employee is notifined and immediately rep

The ASD or EBT machine being used must also be listed on the NHTSA conforming products list

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The results are printed on a Federal Alcohol Testing Form(ATF).

The final results are reported to the employer by the ASD or EBT technician. How do you identify employees for testing?

### For drug testing identification:

The employee's SSN or employee ID number in step 1, section C of the CCF.

0	FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM				
0	SPECIMEN ID NO. 000001	0			
	STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE ACCESSION NO.				
0	A. Employer Name, Address, I.D. No.  B. MRO Name, Address, Phone No Employee info goes here	0			
0	on the drug testing CCF.	0			
0	C. Donor SSN or Employee I.D. No  D. Specify Testing Authority:  HHS  NRC  Specify DOT Agency:  FMCSA  FAA  FRA  FTA  PHMSA  USCG	0			
0	E. Reason for Test: Pre-employment Random Reasonable Suspicion/Cause Post Accident Return to Duty Follow-up Other (specify)  F. Drug Tests to be Performed: THC, COC, PCP, OPI, AMP THC & COC Only Other (specify)  G. Collection Site Address:	0			
0	Collector Phone No	0			
	Collector Fax No.				

## For alcohol testing identification:

The employee's name, SSN or employee ID, & employer's name and address in Step 1.

#### U.S. Department of Transportation (DOT) Alcohol Testing Form (The instructions for completing this form are on the back of Copy 3)

Employee info goes here on the alcohol testing form.

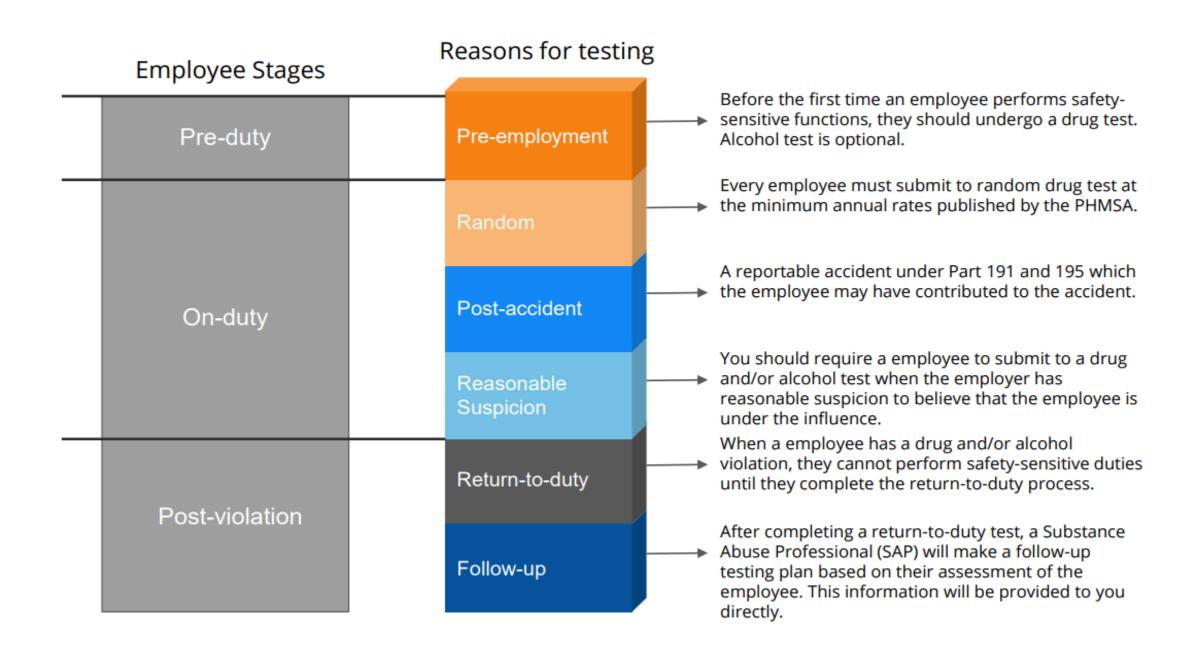
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# What if there's a conflict with Federal and State laws?

The Federal regulations preempt any State or local law, rule, regulation, or order.

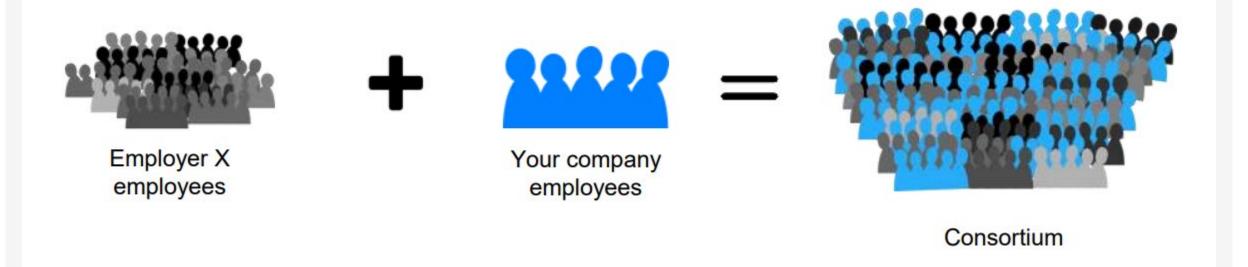


When is testing required?



What's a consortium?

Consortium/Third-party Administrator- A service agent that provides or coordinates one or more drug and/or alcohol testing services. This includes a group of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool).



Make sure the consortium you use is testing at the appropriate percentage established for your industry and that only DOT employees are in the random testing pool.



What if you "opt in" for preemployment alcohol testing?

#### You must:

- 1.Test before they begin safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).
- 2.Treat all safety-sensitive employees equally, (i.e., do not test some covered employees and not other).
- 3.Conduct the test after making a contingent offer of employment or transfer, subject to the employee passing pre-employment alcohol test.
- 4. The test must indicate an alcohol concentration of less than 0.04 for them to begin work.

When is a post-accident drug and alcohol test required?

#### Part 191.3 Incident Means:

- (1)An event that involves a release of gas from a pipeline, gas from an underground natural gas facility, liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:
- (i)A death, or personal injury necessitating in-patient hospitalization;
- (ii)Estimated property damage of \$149,700 or more, including loss to the operator and others, or both, but excluding cost of gas lost;
- (iii)Unintentional estimated gas loss of three million cubic feet or more.

### Part 191.3 Incident (cont'd)

- (2)An event that results in an emergency shutdown of an LNG facility or an underground natural gas storage facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.
- (3)An event that is significant in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2) of this definition.

#### Part 195.50 Accident Means:

An accident report is required for each failure in a pipeline system subject to this part in which there is a release of the hazardous liquid or carbon dioxide transported resulting in any of the following:

(a) Explosion or fire not intentionally set by the operator.

#### Part 195.50 Accident (cont'd)

- (b)Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
- (1) Not otherwise reportable under this section;
- (2) Not one described in 195.52(a)(4);
- (3)Confined to company property or pipeline right-ofway; and
- (4)Cleaned up promptly;

### Part 195.50 Accident (cont'd)

- (c)Death of any person;
- (d)Personal injury necessitating hospitalization;
- (e)Estimated property damage, including cost of cleanup and recovery, value of lost product, and damage, or both, exceeding \$50,000.

# There are time limits for post-accident alcohol tests.

If a test is not administered within 2 hours following the accident, prepare and maintain on file a record stating the reason the test was not promptly administered.

If a test is not administered within 8 hours following the accident, cease attempts to administer an alcohol test and prepare and maintain the same record.

There's also a time limits for post-accident drug tests.

If a test is not administered within 32 hours following the accident, then stop your attempts to administer a drug test. Prepare a record stating the reasons the test was not promptly administered.

PHMSA can increase or decrease the random annual percentage rate for drug & alcohol testing.

If there is a change in the annual percentage rate, PHMSA will publish the new minimum annual percentage rate for random testing of employees in the Federal Register.

To check the current DOT random rates, go to: <a href="http://www.transportation.gov/odapc/random-testing-rates">http://www.transportation.gov/odapc/random-testing-rates</a>

What if an employee is under multiple DOT agencies?

What if you're required to conduct random alcohol or drug testing of more than one DOT agency?

- 1)Establish separate DOT pools for random selection; or
- 2)Randomly select employees in a combined pool for testing at the highest minimum annual percentage rate established for any DOT agency to which the employer is subject to.

If an employee performs more than one safety-sensitive duty under multiple DOT agency regulations, use the random rates for the DOT agency regulating more than 50% of the employee's function.

#### For Example:





Bob drives only once a month but, does maintenance on an oil pipeline daily. He would be subject to the DOT, PHMSA annual random testing rates.

### An employee should be randomly drug or alcohol tested...



Just before performing safetysensitive duties or,



while performing safety-sensitive duties or,



just after performing safety-sensitive duties.

# When making a reasonable suspicion determination...

The observation must be based on specific, simultaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

The required observations for alcohol and/or drug reasonable suspicion testing must be made by a supervisor or company official who is trained.

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Supervisor training requires a minimum of 60 minutes for recognizing alcohol misuse and 60 minutes for recognizing substance abuse training.

# Reasonable suspicion alcohol testing has a time limit.

If an alcohol test is not administered within 2 hours following a reasonable suspicion determination, prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered.

If an alcohol test is not administered within 8 hours following a reasonable suspicion determination, cease attempts to administer an alcohol test and state in the records the reasons for not administering the test.

Make a written record of the observations leading to an alcohol or drug reasonable suspicion test and signed by the supervisor or company official who made the observation.



When an employee has a drug and/or alcohol violation, they cannot perform safety-sensitive duties until they complete the return-to-duty process.

### What is the return-to-duty process?

#### The employee must complete:

- 1)An SAP evaluation
- 2)A referral to education or treatment classes
- 3)An SAP follow-up drug or alcohol testing plan
- 4)Complete a negative return-to-duty drug and/or alcohol test

#### What's an SAP?

Substance Abuse Professional (SAP)- A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

After a return-to-duty test, an employee must adhere to and complete a follow-up testing plan.

### What's a follow-up testing plan?

An SAP will make a follow-up testing plan based on their assessment of the employee. This information will be provided to you directly.

For example:

"Billy Smith must complete 18 drug & alcohol tests over the next 12 months.

2 drug & alcohol tests per month during the first 6 months and 1 drug & alcohol test per month during the last 6 months."

### Drug and Alcohol Prohibitions



# What's the prohibited alcohol concentration?

An employee can't report for duty or stay on while performing a safety-sensitive functions with an alcohol concentration of 0.04 or greater.

Alcohol concentration is the alcohol in a volume of breath expressed in grams of alcohol per 210 liters indicated in an evidential breath test (EBT).

### On-duty alcohol use is strictly prohibited!

### What about pre-duty alcohol use?

An employee can't perform safety-sensitive functions within 4 hours after using alcohol.

# What about alcohol use following an accident?

An employee required to take a post-accident alcohol test cannot use alcohol for 8 hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

What if an employee refuses to submit to a required alcohol or drug test?

You can't allow them to perform safetysensitive functions, and they must complete the return-to-duty requirements.

### What about other alcohol prohibitions?

If an employee has an alcohol concentration of 0.02 or greater but less than 0.04, they can't perform or continue to perform safety-sensitive functions for an employer.

In this case, the employee can't perform safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test.

### What drugs are prohibited?

An employee can't perform safety-sensitive functions if they use any drug or substance identified as Schedule I drug.

### What's tested in the DOT drug test panel?

- 1)Marijuana (THC)
- 2)Cocaine
- 3)Amphetamine's
- 4)Opiates
- 5)Phencyclidine (PCP)

# What if an employee uses a non-schedule I drug?

An employee can't perform safetysensitive functions if they use any nonschedule I drug except when it has been approved by a doctor.



What if an employee tests positive, adulterated, or substituted their specimen?

An employee can't report for duty, remain on duty or perform a safety-sensitive function!

#### Employee Prohibitions and Employer Responsibilities

Employers must prevent employees from performing safety-sensitive duties in these situations if they are not completing the return-to-duty requirements

Refusal Employee refuses to submit to a drug or alcohol test.



Positive Alcohol Test An alcohol test of 0.04 or higher.





Employee Prohibitions

An employee cannot perform safetysensitive duties after these violations



Post-accident Alcohol Use Uses alcohol prior to a postaccident alcohol test.

Positive Drug Test
A positive, substituted, or adulterated
drug test result.





Witness Drug or Alcohol Use You witness the employee using drugs or alcohol on-duty or alcohol 4 hours pre-duty. Handling of Test Results, Records Retention, and Confidentiality Keep drug and alcohol records in a secure location with controlled access.





### Record Retention Schedule Maintain records according to this schedule

ONE YEAR

TWO YEARS

**FIVE YEARS** 

INDEFINITE

Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02.

Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices).

Records of employee alcohol test results indicating an alcohol concentration of 0.02 or greater

Records of employee verified positive controlled substances test results

Documentation of refusals to take required alcohol and/or controlled substances tests

Employee evaluation and referrals

Calibration documentation

Records related to the administration of the alcohol and controlled substances testing program, including records of all employee violations

A copy of each annual calendar year DOT/MIS report.

Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and employees shall be maintained by the employer while the individual performs the functions which require the training and for two years after ceasing to perform those functions.

# What is DOT/MIS reports?

#### Management Information Summary (MIS) Report-

A summary of the results of your alcohol and controlled substance testing programs.

An operator with 50 or more covered employees must report their annual calendar year MIS to the DOT by March 15 of each year for the prior year.

Operators with less than 50 should report upon request by PHMSA.

A service agent or C/TPA can prepare DOT/MIS forms for you.

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Return-to	-Duty	0	0	0	0	0	0	0	0	0	0	0	0	(
Follow-U	Jp.	0	0	0	0	0	0	0	0	0	0	0	0	(
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	Post-Accident		1		1		0	0		0	0	0	0	0
	Reasonable Sus	p./Cause	0		0		0	0		0	0	0	0	0
	Return-to-Duty		0		0		0	0		0	0	0	0	0
	Follow-Up		0		0		0	0		0	0	0	0	0

TOTAL

# Where to send DOT/MIS reports?

To submit your DOT/MIS forms electronically, go to: <a href="https://damis.dot.gov">https://damis.dot.gov</a>

To check MIS submission request, register at: <a href="https://portal.phmsa.dot.gov/phmsaportallanding">https://portal.phmsa.dot.gov/phmsaportallanding</a>

## Who has access to your records?

- 1)An employee, upon written request, for their test results.
- 2)The Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority.
- 3)Subsequent employers upon receipt of a written request from an employee.
- 4)The National Traffic Safety Board as part of a crash investigation.

This shouldn't prevent you from releasing records in the case of legal proceedings such as an employment workforce claim.

# What are previous employer inquiries?

For new applicants, employers must request alcohol and drug test history from previous employers.

The employer must request information from all DOT-regulated employers that employed the employee within the previous 2 years, and the scope of the information requested must date back 2 years.

### Alcohol Misuse and Drug Use Information For Employees

# A drug and alcohol policy is the core of your program.

Distribute your policy to each employee prior to the start of alcohol and controlled substances testing and to each employee subsequently hired or transferred into a covered function.

Make sure that each employee has signed a statement certifying that he or she has received a copy of your drug and alcohol policy. Maintain the original signed certificate to the employee.

#### III. Appendix A - Acknowledgement/Receipt Form

I acknowledge, by signing this form, that	my full compliance with	the Anti-Drug and Alcohol Misuse
Prevention Plan (the "Plan") and DOT dru	g and alcohol regulation	requirements is a condition of my
initial and continued employment with the C	Company. I understand a	nd agree that I may be discharged
or otherwise disciplined for any drug and/or	alcohol violation, committ	ed by me, as cited in the Plan and/or
in the DOT drug and alcohol regulatory requir	ements.	•

I also acknowledge, by signing this form, that a copy of the Plan has been made available to me and that I have read and understand the requirements of the Company and DOT drug and alcohol program. I have also been provided with informational materials on the dangers and problems of drug abuse and alcohol misuse.

Signed, this the	day of	
		Employee Name (Please Print)
		Employee Signature

### Components of a DOT PHMSA Drug and Alcohol Policy

Make this information available to your employees





Identify the DER.



The categories of employees subject to the requirements.



The safety-sensitive functions of the employees.



Prohibited conduct.



The circumstances when a drug and alcohol test is required.



The procedures used for drug and alcohol testing.



The requirements that a employee must submit to a drug and alcohol test.



An explanation of a refusal to test and its consequences,



Consequences for violations.



Consequences for alcohol concentration from 0.02 to 0.039



Information about the effects of substance abuse in the workplace and access to EAP info.

## What if you do not comply with these requirements?

Any employer or employee who violates the requirements of this part shall be subject to civil and/or criminal penalty provisions!



## Questions?