

10. Actions taken for alcohol regulation violations.

11. Number of employees having both a positive drug test and an alcohol test of 0.04 or greater when both tests were administered at the same time.

12. Number of other violations of the alcohol regulation.

13. Actions taken for refusals to take an alcohol test.

14. Supervisor alcohol training data.

#### FTA

1. Number of persons denied a position for alcohol results 0.04 or greater.

2. Number of accidents (noted as fatal and non-fatal) with alcohol results 0.04 or greater.

3. Number of fatalities from accidents resulting in alcohol results 0.04 or greater.

4. Number of employees returned to duty following an alcohol violation.

5. Number of employees having both a positive drug test and an alcohol test of 0.04 or greater when both tests were administered at the same time.

6. Actions taken for other alcohol rule violations.

7. Supervisor alcohol training data.

8. Number of persons denied a position for positive drug test results.

9. Number of accidents (noted as fatal and non-fatal) with positive drug test results.

10. Number of fatalities from accidents resulting in positive drug tests results.

11. Number of persons returned to duty following a positive drug test or refusal result.

12. Employee drug education data.

13. Supervisor drug training data.

14. Funding source information.

#### FRA

1. Number of applicants/transfers denied employment/transfer for a positive drug test.

2. Number of employees returned to duty after having failed or refused a drug test.

3. Detailed breakouts of for-cause drug and alcohol testing.

4. Non-qualifying accident drug testing data.

5. Supervisor drug training data.

6. Number of applicants/transfers denied employment/transfer for alcohol results 0.04 or greater.

7. Number of employees returned to duty after engaging in alcohol misuse.

8. Supervisor alcohol training data.

#### USCG

1. Number of persons denied a position for a positive drug test.

2. Number of employees returned to duty following a drug violation.

3. Employee drug and alcohol training data.

4. Supervisor drug and alcohol training data.

5. Post-accident alcohol testing data.

6. Reasonable cause alcohol testing data.

#### RSPA

1. Number of employees returned to duty after engaging in alcohol misuse.

2. Actions taken for alcohol test results equal to or greater than 0.04.

3. Number of other alcohol rule violations and actions taken for them.

4. Actions taken for alcohol test refusals.

5. Supervisor initial alcohol training data.

6. Number of persons denied a position following a positive drug test.

7. Number of employees returned to duty following a positive or refusal drug test.

8. Actions taken for positive drug tests.

9. Actions taken for drug test refusals.

10. Supervisor initial drug training data.

The Department will also count collections differently than under the old MIS regimen. Under the old MIS counting method a drug collection was considered to be a testing event that resulted in a negative, positive, or cancellation. Refusals to test—no matter the reason for the refusal—were not considered appropriate for inclusion. Despite the instruction to include no refusals, we know that many companies included those that were the result of adulterated or substituted results that were verified by the MRO as refusals. Still other companies counted these types of refusals as well as refusal events for which no urine was sent to laboratories for testing (e.g., employee failed to show-up at the collection site; employee left the collection site before urine had been collected).

Similarly, in determining if companies were conducting random testing at the appropriate established annual rates, some DOT agencies did not count refusals; some counted all refusals; and still others counted only refusals reported by the MRO (as a result of adulteration or substitution) toward satisfaction of the random testing rate requirement. Furthermore, in calculating the annual random rates for testing, all DOT agency rules said the following will be factored for the positive rate: number of random positives plus number of random refusals divided by the number of random tests plus the number of random refusals. This means that some cancelled random tests and random

refusals were already in the random test numbers before the number of random refusals had been added to the total.

To clear up these discrepancies, the Department will count the number of specimens collected as the number of testing events resulting in negative, positive, and refusal to test results no matter the reason for the refusal. We have added all refusals to the number of tests because DOT agencies factor refusals into determining whether or not employers have met annual random testing rate requirements. We will not add cancelled test results to the mix because part 40.207(b) says, “. . . a cancelled test does not count toward compliance with DOT requirements (e.g., being applied toward the number of tests needed to meet the employer's minimum random testing rate).”

Invalid test results are always cancelled and will not be included. However, those invalid results requiring a subsequent directly observed collection will simply be considered another collection that will have a final result. In addition, blind testing will not be counted as a testing event. Counting in this manner will enable many of the columns and rows of the MIS form to total up.

In addition, annual random testing rates will be determined using more accurate counts because no cancelled test will be mistakenly included and no refusals will be factored twice in the total. DOT agency inspectors, reviewers, and auditors will count all refusals (e.g., be they from an adulterated specimen result or from “shy bladder” evaluation with no medical condition) as satisfying a company's meeting its random testing rate.

For cancellations requiring the employee to take a second test, the test that is cancelled will not count. However, the result of the subsequent recollection will count, provided that it too is not cancelled. These situations include: invalid test cancellations requiring the employee to go in for an observed collection; split specimen cancellations requiring the employee to go in for an observed collection; and cancellations requiring the employee to go in for another collection because a negative result is needed (for pre-employment; return to duty; and follow-up testing).

In addition, if more than one set of specimens is sent to the lab during one testing event, they will count together as one collection: These include: negative-dilute specimens when the employee goes in for a second collection per employee policy [the result of the second test is the result of record]; and observed collections requiring both the