

Section 199.3 Definitions

The definition for "positive rate" for random drug testing is being modified in § 199.3 in order to be consistent with the standardized DOT definition.

Section 199.117 Recordkeeping

Subparagraph (a)(2) of § 199.117 has been revised to include a requirement to maintain MIS drug testing data for 5 years to parallel the requirement for maintaining MIS alcohol testing data at § 199.227(b)(1). Subparagraphs (a)(2)(i)(ii)(iii) and (4) of § 199.117 have been removed because the retention of the data previously required by these paragraphs will be captured in the MIS data retention requirement. Subparagraph (5) of § 199.117 has been redesignated as subparagraph (4).

Section 199.119 Reporting of Anti-Drug Testing Results

Paragraph (a) of § 199.119 has been revised to require use of the new Management Information System (MIS) form and instructions required by part 40. Paragraph (b) of § 199.119 has been revised to include electronic submission of drug testing MIS reports and correct the room number for submitting paper versions of these reports. Paragraph (c) of § 199.119 has been revised to be consistent with part 40 on how operators are to determine the number of covered employees eligible for random drug testing. Paragraph (d) of § 199.119 has been revised to specify an operator's responsibility when using a service agent to perform random selections. Paragraph (e) of § 199.119 has been revised to provide instructions on how to report random drug testing MIS data for employees covered by more than one DOT agency, consistent with part 40. Paragraph (f) of § 199.119 has been revised to specify who may prepare drug testing MIS reports.

Section 199.229—Reporting of Alcohol Testing Results

Paragraph (a) of § 199.229 has been revised to require use of the new Management Information System (MIS) form and instructions required by part 40. Paragraph (b) of § 199.229 has been revised to provide instructions on how to report alcohol testing MIS data for employees covered by more than one DOT agency, consistent with part 40. Paragraph (c) of § 199.229 has been revised to include electronic submission of alcohol testing MIS reports and correct the room number for submitting paper versions of these reports. Former paragraph (d) and subparagraphs (d)(1)(2)(3)(i)(ii)(4)(5)(6)(7)(8)(9)(10) of § 199.229 have been removed because RSPA now requires use of the part 40

MIS form and the instructions for this form specify the data elements to be reported. Former paragraph (e) and subparagraphs (e)(1)(2)(3)(4)(5) of § 199.229 have been removed because the instructions for the MIS form in part 40 specify the data elements to be reported. Former paragraph (f) of § 199.229 permitting consortium to prepare MIS reports has been redesignated as paragraph (d) and revised to include service agents and third party administrators as defined in part 40.

List of Subjects in 49 CFR Part 199

Alcohol testing, Drug testing, Operators, Pipeline safety, Recordkeeping and reporting.

49 CFR Chapter I

Authority and Issuance

■ For reasons discussed in the preamble, the Research and Special Programs Administration amends part 199 of title 49, Code of Federal Regulations, as follows:

PART 199—DRUG AND ALCOHOL TESTING

■ 1. The citation of authority for 49 CFR part 199 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

■ 2. Amend § 199.3 by removing the definition for "positive rate" and adding the following definition in its place to read as follows:

§ 199.3 Definitions.

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Positive rate for random drug testing means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (*i.e.*, positives, negatives, and refusals) under this part.

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■ 3. Amend § 199.117 by revising paragraph (a)(2), removing paragraph (a)(4) and redesignating paragraph (a)(5) as paragraph (a)(4) and revising it to read as follows:

§ 199.117 Recordkeeping.

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(a) * * *

(2) Records of employee drug test that indicate a verified positive result, records that demonstrate compliance with the recommendations of a substance abuse professional, and MIS annual report data shall be maintained for a minimum of five years.

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(4) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least 3 years.

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■ 4. Revise § 199.119 to read as follows:

§ 199.119 Reporting of anti-drug testing results.

(a) Each large operator (having more than 50 covered employees) shall submit an annual MIS report to RSPA of its anti-drug testing using the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at § 40.25 and appendix H to Part 40), not later than March 15 of each year for the prior calendar year (January 1 through December 31). The Administrator shall require by written notice that small operators (50 or fewer covered employees) not otherwise required to submit annual MIS reports to prepare and submit such reports to RSPA.

(b) Each report, required under this section, shall be submitted to the Office of Pipeline Safety Compliance (OPS), Research and Special Programs Administration, Department of Transportation, room 2103, 400 Seventh Street, SW., Washington, DC 20590. The operator may submit a paper report or data electronically using the version of the MIS form provided by DOT. This electronic version of the form can be accessed via the Internet at the following Office of Pipeline Safety web address: <http://ops.dot.gov/drug.htm>.

(c) To calculate the total number of covered employees eligible for random testing throughout the year, as an operator, you must add the total number of covered employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Covered employees, and only covered employees, are to be in an employer's random testing pool, and all covered employees must be in the random pool. If you are an employer conducting random testing more often than once per month (*e.g.*, you select daily, weekly, bi-weekly), you do not need to compute this total number of covered employees rate more than on a once per month basis.

(d) As an employer, you may use a service agent (*e.g.*, C/TPA) to perform random selections for you; and your covered employees may be part of a larger random testing pool of covered employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only covered employees are in the random testing pool.