

Subpart B—Drug Testing

§ 199.100 Purpose.

The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to part 192, 193, or 195 of this chapter.

[Amdt. 199–19, 66 FR 47118, Sept. 11, 2001]

§ 199.101 Anti-drug plan.

(a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures. The plan must contain—

- (1) Methods and procedures for compliance with all the requirements of this part, 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.

(b) The Administrator or the State Agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 *et seq.*) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant State procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

[53 FR 47096, Nov. 21, 1988, as amended by Amdt. 199–2, 54 FR 51850, Dec. 18, 1989; Amdt. 199–4, 56 FR 31091, July 9, 1991; 56 FR 41077, Aug. 19, 1991; Amdt. 199–13, 61 FR 18518, Apr. 26, 1996; Amdt. 199–15, 63 FR 36863, July 8, 1998. Redesignated by Amdt. 199–19, 66 FR 47118, Sept. 11, 2001]

§ 199.103 Use of persons who fail or refuse a drug test.

(a) An operator may not knowingly use as an employee any person who—

- (1) Fails a drug test required by this part and the medical review officer

makes a determination under DOT Procedures; or

(2) Refuses to take a drug test required by this part.

(b) Paragraph (a)(1) of this section does not apply to a person who has—

(1) Passed a drug test under DOT Procedures;

(2) Been considered by the medical review officer in accordance with DOT Procedures and been determined by a substance abuse professional to have successfully completed required education or treatment; and

(3) Not failed a drug test required by this part after returning to duty.

[53 FR 47096, Nov. 21, 1988, as amended by Amdt. 199–2, 54 FR 51850, Dec. 18, 1989. Redesignated and amended by Amdt. 199–19, 66 FR 47118, Sept. 11, 2001]

§ 199.105 Drug tests required.

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

(a) *Pre-employment testing.* No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug program that conforms to the requirements of this part.

(b) *Post-accident testing.* As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.

(c) *Random testing.* (1) Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.

(2) The Administrator's decision to increase or decrease the minimum annual percentage rate for random drug