

§ 199.229

(i) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.

(ii) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

(5) Record(s) related to the operator's MIS annual testing data.

(6) Records related to education and training:

(i) Materials on alcohol misuse awareness, including a copy of the operator's policy on alcohol misuse.

(ii) Documentation of compliance with the requirements of § 199.231.

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(iv) Certification that any training conducted under this subpart complies with the requirements for such training.

§ 199.229 Reporting of alcohol testing results.

(a) Each large operator (having more than 50 covered employees) shall submit an annual MIS report to PHMSA of its alcohol testing results 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 previous calendar year (January 1 through December 31). The Administrator may 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 PHMSA.

(b) Each operator that has a covered employee who performs multi-DOT agency functions (*e.g.*, an employee performs pipeline maintenance duties and drives a commercial motor vehicle), count the employee only on the MIS report for the DOT agency under which he or she is tested. Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties. Operators may have to explain the testing data

49 CFR Ch. I (10–1–14 Edition)

for these employees in the event of a DOT agency inspection or audit.

(c) Each report required under this section shall be submitted to the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, PHP-60, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(d) A service agent (*e.g.*, Consortia/Third Party Administrator as defined in part 40) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator's anti-drug manager or designated representative for accuracy and completeness.

[68 FR 75466, Dec. 31, 2003, as amended by Amdt. 199-20, 69 FR 32898, June 14, 2004; 70 FR 11140, Mar. 8, 2005; 73 FR 16571, Mar. 28, 2008; 74 FR 2895, Jan. 16, 2009]

§ 199.231 Access to facilities and records.

(a) Except as required by law or expressly authorized or required in this subpart, no employer shall release covered employee information that is contained in records required to be maintained in § 199.227.

(b) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests. The operator shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

(c) Each operator shall permit access to all facilities utilized in complying with the requirements of this subpart to the Secretary of Transportation, any DOT agency, or a representative of a state agency with regulatory authority over the operator.

(d) Each operator shall make available copies of all results for employer alcohol testing conducted under this subpart and any other information pertaining to the operator's alcohol misuse prevention program, when requested by the Secretary of Transportation, any DOT agency with regulatory authority over the operator, or a representative of a state agency with regulatory authority over the operator.