§ 655.71 Retention of records.

(a) General requirement. An employer shall maintain records of its anti-drug and alcohol misuse program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. In determining compliance with the retention period requirement, each record shall be maintained for the specified minimum period of time as measured from the date of the creation of the record. Each employer shall maintain the records in accordance with the following schedule:

(1) Five years. Records of covered employee verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, and covered employee referrals to the substance abuse professional, and copies of annual MIS reports submitted to FTA.

(2) Two years. Records related to the collection process and employee training.

(3) One year. Records of negative drug or alcohol test results.

(c) Types of records. The following specific records must be maintained:

(1) Records related to the collection process:
   (i) Collection logbooks, if used.
   (ii) Documents relating to the random selection process.
   (iii) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests.
   (iv) Documents generated in connection with decisions on post-accident drug and alcohol testing.
   (v) MRO documents verifying existence of a medical explanation of the inability of a covered employee to provide an adequate urine or breathe sample.

(2) Records related to test results:
   (i) The employer's copy of the custody and control form.
   (ii) Documents related to the refusal of any covered employee to submit to a test required by this part.

(3) Records related to referrals and return to duty and follow-up testing:
   (i) Training materials on drug use awareness and alcohol misuse, including a copy of the employer's policy on prohibited drug use and alcohol misuse.
   (ii) Names of covered employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training.
   (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.
   (iv) Certification that any training conducted under this part complies with the requirements for such training.

(4) Records related to employee training:
   (i) The employer's copy of the custody and control form.
   (ii) Names of covered employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training.
   (iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion.
   (iv) Certification that any training conducted under this part complies with the requirements for such training.

(5) Copies of annual MIS reports submitted to FTA.

§ 655.72 Reporting of results in a management information system.

(a) Each recipient shall annually prepare and maintain a summary of the results of its anti-drug and alcohol misuse testing programs performed under this part during the previous calendar year.

(b) When requested by FTA, each recipient shall submit to FTA's Office of Safety and Security, or its designated agent, by March 15, a report covering the previous calendar year (January 1 through December 31) summarizing the results of its anti-drug and alcohol misuse programs.

(c) Each recipient shall be responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf.

(d) As an employer, you must use the Management Information System.
§ 655.73 Access to facilities and records.

(a) Except as required by law, or expressly authorized or required in this section, no employer may release information pertaining to a covered employee that is contained in records required to be maintained by § 655.71.

(b) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the covered employee’s use of prohibited drugs or misuse of alcohol, including any records pertaining to his or her drug or alcohol tests. The employer shall provide promptly the records requested by the employee. Access to a covered employee’s records shall not be contingent upon the employer’s receipt of payment for the production of those records.

(c) An employer shall permit access to all facilities utilized and records compiled in complying with the requirements of this part to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees or to a State oversight agency authorized to oversee rail fixed guideway systems.

(d) An employer shall disclose data for its drug and alcohol testing programs, and any other information pertaining to the employer’s anti-drug and alcohol misuse programs required to be maintained by this part, to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or covered employee or to a State oversight agency authorized to oversee rail fixed guideway systems, upon the Secretary’s request or the respective agency’s request.

(e) When requested by the National Transportation Safety Board as part of an accident investigation, employers shall disclose information related to the employer’s drug or alcohol testing related to the accident under investigation.

49 CFR Ch. VI (10–1–14 Edition)

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